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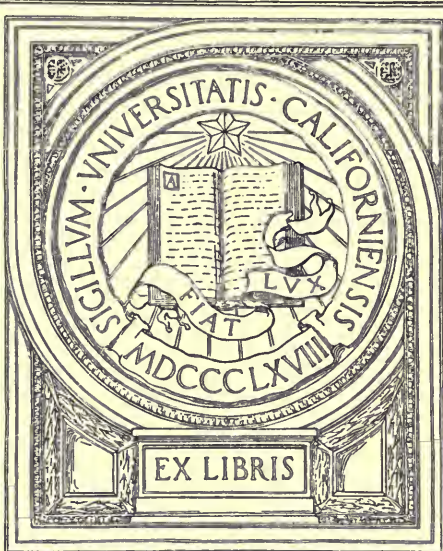


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MOORE — NOTES ON THE HISTORY OF THE OLD STATE HOUSE



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NOTES

ON THE HISTORY OF

THE OLD STATE HOUSE

FORMERLY KNOWN AS

THE TOWN HOUSE IN BOSTON—THE COURT HOUSE IN BOSTON
—THE PROVINCE COURT HOUSE—THE STATE
HOUSE—AND THE CITY HALL

BY

GEORGE H. MOORE, LL.D.

SUPERINTENDENT OF THE LENOX LIBRARY

SECOND PAPER

Read before the BOSTONIAN SOCIETY, February 9, 1886

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THE OLD STATE HOUSE IN BOSTON.

[SECOND PAPER.]

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 THE kind, I may say cordial, reception given to my former paper of *Notes on the History of the Old State House* has encouraged me again to take up the thread and follow out the subject. I broke off at that point in the history, when in November, 1776, the Legislature of the State of Massachusetts Bay met for the first time within these walls. No longer Colony or Province, but *State*! No longer awaiting any "accommodation" with royal authority, but then and thereafter one of the great Union of free and independent States of America—that body of States in union to whom thenceforward belonged the sovereignty which the King of Great Britain was obliged to relinquish. The change of name was significant and it was not reached or established without "great searchings of heart," even in Massachusetts, where rebellion is said to have been at a premium at a very early date.*

Terry
 As we review the history of this venerated structure, we cannot fail to recall those men of old whose names are identified with its ancient glories. "There were giants in those days." I am not aware that its doors were ever darkened by Kings or Princes of the earth—excepting when the chiefs of native tribes of Indians may have stood here as delegates of their people or as prisoners and hostages. The great names of Massachusetts are of course all written in its visitors' book of remembrance: but even that brilliant record of personal memories and associations is exalted and dignified by other names never to be forgotten in the history of this nation or that of the world,

* See APPENDIX: I.

WASHINGTON, LAFAYETTE, FRANKLIN, JEFFERSON, besides a host of the other worthies who are always present or accounted for at the roll-call of History.

Washington's first visit to Boston was in 1756. He celebrated his 24th birthday somewhere on the road between this city and New York. The purpose of his long journey from Virginia was to obtain from Governor Shirley, who had succeeded Braddock in the general command of the colonial forces, a decision upon disputes about precedence which had arisen among the provincial officers. His mission was successful.

Mr. Sparks says: "He was well received and much noticed, by General Shirley, with whom he continued ten days, mixing constantly in the society of the town, and attending with interest to the proceedings of the legislature of Massachusetts, then engaged in affairs of great moment respecting the requisite aids for promoting the grand scheme of military operations, recently agreed upon by a council of several governors assembled at New York. He also visited Castle William, and other objects worthy of a stranger's notice." *Sparks: ii. 132-133.**

Although no trace of his presence appears in the printed records of the Legislature, there is little reason to doubt that he did visit with interest and attention the principal public building of the Province, especially as the General Court was at that time in session—and the fame of his services against the French and Indians, especially with Braddock, was universal throughout the colonies.

He was welcomed by the critical press of the day with these words: "Last Friday came to this town from Virginia, the Honorable Colonel WASHINGTON, a Gentleman who has deservedly a high reputation for Military Skill,

* I do not know the authorities for these statements of Mr. Sparks, but he is evidently wrong as to the length of Washington's visit at this time; for it appears from the papers of the day that he left New York on the 20th of February and arrived in Boston on the 27th, returning so as to reach New York again on the 9th of March. Of these last ten days a large part must have been spent on the road between the two places.

Integrity, and Valour, tho' Success has not always attended his Undertakings." *The Boston Gazette*: No. 48. Monday, March 1, 1756.

His next visit here was with joyful welcome as the Deliverer of the City—HOSTIBUS PRIMO FUGATIS—to quote the legend happily inscribed on the medal which commemorates so great an exploit. This was in 1776 at the termination of those weary months during which Boston had been "made a Garrison by the Ministerial Army and became a common Receptacle for the Enemies of America." *Laws*: 1776: p. 24.

For the fact of his presence in this room during that visit, we have the evidence of the contemporary record, so characteristic, that it must not be abated one jot or tittle of its quaint expression. In the House of Representatives:

1776. March 19. It was moved that the Selectmen of *Boston* be directed to provide a Dinner in that Town on Thursday next, [March 21] for his Excellency General *Washington*, and such General officers as may attend him to the *Lecture to be delivered there at that Time*; and the Question being put, it passed in the Negative. *Journal*: 19.

The failure of this resolution, although it may have saved the pockets of the Selectmen of Boston, did not defeat the dinner, which was to supplement and aid in the digestion of the Thursday Lecture. I can recall no more characteristic New England entertainment than that of General Washington on this occasion—a long sermon, and a good dinner, both with the usual trimmings.

The second and successful order for the entertainment was as follows:

1776. March 23d. On a Motion, *Ordered*, That Mr. *Brown*, Mr. Speaker *Cooper*, Deacon *Rawson*, Mr. *Pitts*, and Col. *Sartel*, be a Committee to provide a Dinner for his Excellency General *Washington*, and the other General officers, with their Suits, the Council, the Speaker, and the Ministers of *Boston*. *Journal*: 36.

The press of the day preserved the record of the solemnities as well as the festivities of the occasion :

“ Thursday last [March 28, 1776] the lecture which was established and has been observed from the first settlement of Boston without interruption until within these few months past, was opened by the Rev. Dr. Eliot. His Excellency General Washington, the other General officers, and their suites, having been previously invited, met in the Council Chamber, from whence, preceded by the Sheriff with his wand, attended by the members of the Council who had had the small-pox, the Committee of the House of Representatives, the Selectmen, the Clergy, and many other gentlemen, they repair'd to the old Brick Meeting House, where an excellent and well adapted discourse was delivered from the 33d chapter of Isaiah, 20th verse.

“ After Divine Service was ended, his Excellency attended and accompanied as before, returned to the Council Chamber, from whence they proceeded to the Bunch of Grapes Tavern, where an elegant dinner was provided *at the public expense* ; after which many proper and very pertinent toasts were drank. Joy and gratitude sat on every countenance and smiled in every eye. The whole was conducted and concluded to the satisfaction of all.” *Massachusetts Gazette* (quoted in Ellis's *First Church* : 207), April 4, 1776.

I shall notice but one or two features of the memorable occasion of Washington's grand reception and entertainment in 1789, when as President of the United States he revisited these scenes for the last time, and the Old State House was the absolute centre of all the action and attraction of the day.

Upon his arrival in the neighborhood of this building the President dismounted and was conducted on foot through a Triumphal Arch erected across the [Cornhill] Main-Street to the Senate Chamber by the East door of the State House, whence he passed through the Representatives' Chamber to the Colonnade erected for the oc-

casion at the West end of the State House.* . . . *The central West window of the State House* was the door through which he passed to the front by four easy steps from a platform to the floor of the gallery, which was furnished with arm-chairs and richly carpeted. John Adams, Samuel Adams, then Lieutenant Governor, and Ex Governor Bowdoin with other officials were with the President in the gallery, from which he reviewed the procession of which he himself in his military uniform on an elegant white horse had been the most conspicuous object. *Gazette of the United States*: November 4, 1789.

Surely, it is something to remember that these silent old walls have been dignified by that great presence, and consecrated by the recollections and associations that belong to it in history.

What would have been the value to New York in 1861—on the day after the firing on Fort Sumter—of the “Old City Hall” in Wall Street, where the speakers who gave voice to the indignation of the whole people on that occasion might have stood in the very place where Washington in 1789 took the oath to support the Constitution of the United States, as the First President, and the Flag of the Union was first displayed as the symbol of its authority. The mighty surge of popular wrath against treason and rebellion was seen and felt around the base of Washington’s Statue in Union Square, but who can estimate the significance and power of that spiritual presence which would have exalted and inspired such a meeting in and around the walls of the Old City Hall !

Lafayette came to America in 1777. He first saw the spires of Boston on the morning of Saturday, the 29th of August, 1778, as he approached the town from Rhode

* President Washington’s own account of this part of his reception describes his “entering the State House at the S^o end and ascending to the upper floor and returning to a Balcony at the N. end.” It is not strange that he “lost his bearings” in that progress under the Arch across Cornhill, down State St. to the Eastern front, and up the steps of the principal entrance.

Island, where a critical scene was in preparation for a great disappointment in that eventful summer. Mr. Sparks states that the youthful general was at this time present at a conference between the Massachusetts Council and the Count D'Estaing, commander of the French fleet then in New England waters. *Sparks*: vi. 58. The Legislature was not in session from the 23d June to the 16th September, and I have found no mention of the presence of Lafayette in the Old State House at this time—but there is little occasion for doubt that the interview took place in this room, just before the Battle of Rhode Island and Sullivan's retreat. He was in Boston but one day, staid with General Hancock, and sat out on Sunday on his return to camp. *Boston Gazette*: Monday, August 31, 1778.

In the following year, Lafayette returned to France, where he was welcomed with enthusiasm. Coming back to America in 1780, he arrived at Boston on the 26th of April. He was at this time "charged by the Court of France to announce to General Washington its intention to send a fleet and army to co-operate with the troops of the United States." *Sparks*: vii. 195.

On the 28th of April a joint committee was appointed to consider what provision should be made "for the reception and entertainment of the Marquis de la Fayette, who has lately arrived from France and is expected in town this day, and for other Gentlemen of public character who may at any time come into this State." The committee reported the same day, and, upon the arrival of the Marquis, and his intimation that he was desirous of paying his respects to the Legislature, arrangements were made for his reception in the Representatives' Room where the President of the Council would congratulate him upon his arrival, in the name and behalf of the General Assembly. Seats were assigned for the Council, as also for the Marquis de la Fayette and his suite when they should incline to attend the House.

The newspapers of the day duly report his arrival and a

"grand reception." He was "personally and publicly received by a Committee of both Houses. . . . Soon after he had a conference with the General Assembly; when the present state of Europe respecting America was inquired into, and the Marquis's accounts received with applause." *Continental Journal*: May 4th, 1780. I think I hear the echo of that applause with which the fleet of De Grasse and the army of Rochambeau was welcomed in advance, as the men of Massachusetts first heard the glad tidings from the lips of Lafayette!

And they emphasized their applause by prompt and timely action. On the next day, April 29th, 1780, I find among the resolves, a grant of Six Thousand Pounds was made from the public treasury of Massachusetts as a loan to enable Colonel Thomas Chase, the Continental Quarter Master General in that Department, to comply with the orders of Major General Marquis de la Fayette.* *Resolves*: 248.

At the close of the war, Lafayette went back to France. In 1784, he again visited the United States, arriving at New York on the 4th of August, and receiving everywhere tokens of the grateful and affectionate regard of the American people. He arrived in Boston, on Friday Evening, October 15th, and was received with unrestrained enthusiasm. On the next day, the Legislature appointed a joint committee to consider and report proper measures to be taken on the occasion, and later in the same day each house laid an injunction on the committee to sit immediately. *Journal*: 139, 140. The House further ordered that a chair be assigned for the Marquis, whenever he might incline to attend their debates, and sent a special committee of three members at once to inform him of the order, who reported promptly that they had attended this business. *Ibid.* 139.

* Lafayette left Boston on Tuesday, May 2, 1780, on his way to join Washington and the Grand Army of the U. S., and arrived at Morristown, N. J., on the 10th of May. A letter from him dated May 2, 1780, was read in the Massachusetts Council and "sent down" to the House the same day.

1784. October 18 (Monday). The Hon. Mr. Lowell brought down the report of the committee of both Houses, appointed to consider, &c., as follows, viz. That the President of the Senate and Speaker of the H. of R. invite the Marquis de la Fayette, to meet the two Houses of the Legislature in the *Senate Room* on Tuesday, the 19th day of Oct. inst. at twelve o'clock, that they may congratulate him on his safe arrival in *America*, after the final establishment of a peace, to which his friendly influence in Europe, and his distinguished exertions in a military character in America, have largely contributed, and of which the anniversary of the 19th of *October*, a day always to be marked in the annals of America, among other instances, happily reminds us: And that His Excellency the Governour and the Honorable Council, be also invited to join in the congratulations.

J. LOWELL, per order.

In Senate, Oct. 18, 1784.

Read and accepted, and thereupon *Ordered*, That the President of Senate and Speaker of the H. of R. take order accordingly. Sent down for Concurrence. Read and Concurred. *p.* 141. On the 19th, meeting at 10 A.M. after a brief session, the House adjourned to 4 P.M. and met accordingly. *p.* 142.

This judicious programme was duly carried out by a reception and congratulations in the manner proposed; "to which congratulations the Marquis was pleased to make a polite and elegant reply." It is not difficult to believe this, for to say nothing of the charm of his courtly French manners, he was skilled in oratory and became a master of the English language.* A grand dinner followed at Faneuil Hall: and the town was full of festivity. I am unable to say whether it was designed or not, but the coincidence is to be noted as a fact that on that "evening [October 19, 1784] the lamps in the various parts of the

* "Lafayette would speak beautiful English for an hour together, . . . was what *he* should call a great speaker." JEREMY BENTHAM. John Neal's Notices of Bentham in *Principles of Legislation*, etc.

town, which had not been lighted for nine years before, were again lighted." *—*Centinel*: October 20, 1784.

Lafayette was accompanied upon this visit by the Marquis de Caraman, a Knight of Malta and Captain of Dragoons, afterwards distinguished in French diplomatic annals as the Duke de Caraman. *Ibid.* and also January 8, 1785. Lafayette's last visit to Boston will be noticed before I close.

As a Boston boy and printer's apprentice, Benjamin Franklin's feet were undoubtedly familiar with the floor of the Exchange walk "for all the inhabitants" which was the most popular feature of the Town House. A runaway in 1723, he returned for a few days in the following year, before he had fairly begun his long and successful career in the Quaker City. In his later life he delighted to recall the decennial visits which he made or purposed making from that time forth. He visited Boston in 1733, 1743, 1753, and 1763. In 1773 he was in England, but in 1775 he had a sight of it, although he could not enter, it being then in possession of the enemy. He has told us that he hoped to have been here in 1783, but could not obtain his dismissal from his employment at that time in France, and in 1784 he said—"Now, I fear, I shall never have that happiness." Letter to Samuel Mather, from Passy, May 12th, 1784.

Of all these years only in 1753 and 1763 could he have entered this third Court House, which he undoubtedly did, holding so important a public office as that of Post-

* In the earlier days of the town, the inhabitants sometimes hung out lights upon dark nights, but public lights in the streets were not long in use before the Revolution, during which, as it here appears, they were disused and neglected. In February, 1769, it was suggested in one of the newspapers, that as "house and shop breaking is become so frequent in this town—*Quære* 1. Would not that be prevented in a great measure by lighting the streets? 2. Is not the March meeting a proper time to take that measure into consideration?" *Boston Chronicle*: Feb. 23, 1769. Their first appearance seems to have been in 1773; when a newspaper of the 3d of March reports that—"Last evening two or three hundred lamps, fixed in the streets and lanes of this town were lighted. They will be of great utility to this metropolis." *Massachusetts Gazette*: March 3, 1773.

master General of North America, so that his is certainly among the great names to recall here and now with grateful pride.

Here, too, was seen after the conclusion of the War, the author of the Declaration of Independence and founder of the Democratic Party.

On the 12th of June, 1784, by a formal vote of the House of Representatives, a chair was assigned for the Hon. Thomas Jefferson, Esq., late Governor of Virginia, and now one of the ministers of the United States for negotiating commercial treaties, if he is inclined to attend the debates of the House. *Journal*: 77.

Mr. Jefferson had been elected by Congress minister plenipotentiary, etc., on the 7th of May. He left Annapolis, where Congress was then sitting, on the 11th of May, and, accompanied by his eldest daughter from Philadelphia, proceeded to Boston, where he arrived on the 25th June. He visited New Hampshire, and returning to Boston, sailed thence on the 5th of July for Cowes, where he arrived on the 26th. *Memoirs*: i., 51, 52. *Massachusetts Centinel*: June 30, 1784.

With these great names it would not be difficult to recall many others eminent in the world's history and literature, of men who have been attracted hither by the memories which identify these walls with the greatest of our own heroes and the wisest of our own statesmen. There is a long roll of distinguished men of France, of very different character and standing from "the shoals of Frenchmen"* who vexed the soul of Washington by their importunities for rank and pay in the Revolutionary Army—Talleyrand, Chastellux, the Counts Segur and Mathieu Dumas, Rochefoucauld-Liancourt, that famous Girondist, Brissot de Warville, and many others. Among them I think I see the author of "Atala," and "The Genius of Christianity"—that wonderful idol of his contemporaries, who also worshipped himself as well as that

* Washington to General Gates, and also to the President of Congress February 20, 1777.

most charming of Frenchwomen, Madame Récamier ; who witnessed an unexampled series of vicissitudes in human affairs, and only ceased "living on his past" as he described himself, in 1848, just when the new cycle was about to commence. That typical Frenchman, Chateaubriand, visited America in 1791, and made a pilgrimage to Boston and Lexington as the scene of the first hostilities between England and the Colonies. It is not to be doubted that his attitude within these walls was marked and characteristic. I should like to read the manuscript journals of that visit to Boston and its vicinity.*

I cannot forget now the names of some whose services to the cause of American freedom were conspicuous and brilliant in the beginning, though darkened and obscured by the clouds that settled for all time about the end of their respective careers. General Lee was here before the opening of hostilities, arriving in Boston on the first of August, 1774 ; and his "plaudits of the Boston wights" were remembered afterwards by New Yorkers, while his letters bear witness to the impressions he derived from that visit.

The author of "Common Sense" and "The Crisis"—the most famous of the political writers of his day in

* Chateaubriand never forgot Lexington, which was the subject of a passage in his first book and his last. In his *Essai Historique sur les Révolutions*, 1er part., chap. xxxiii., published in London in 1797, he said :

"Bientôt après le sang coula en Amérique j'ai vu les champs de Lexington ; je m'y suis arrêté en silence, comme le voyageur aux Thermopyles, à contempler la tombe de ces guerriers des deux mondes qui moururent les premiers, pour obéir aux lois de la patrie. En foulant cette terre philosophique, qui me disoit, dans sa muette éloquence, comment les empires se perdent et s'élèvent, j'ai confessé mon néant devant les voies de la Providence, et baissé mon front dans la poussière."

In his *Mémoires d'outre-tombe*, i. 125, Ed. N. Y., 1848, is the following :

"J'allai en pèlerinage à Boston saluer le premier champ de bataille de la liberté Américaine. J'ai vu les champs de Lexington ; j'y cherchai, comme depuis à Sparte, la tombe de ces guerriers qui moururent *pour obéir aux saintes lois de la patrie*. Mémorable exemple de l'enchaînement des choses humaines ! un bill de finances, passé dans le parlement d'Angleterre en 1765, élève un nouvel empire sur la terre en 1782, et fait disparaître du monde un des plus antiques royaumes de l'Europe en 1789 !"

America—Thomas Paine, was among those who frequented these scenes at times during the course of the war. When John Laurens went out to secure the great French Loan in 1781, he was accompanied by Paine, as secretary. They sailed from Boston in the Alliance frigate, February 11, 1781, and returned from Brest to Boston, where they arrived on the 25th of August, 1781, in a French vessel, with upwards of 100,000 pounds sterling two and a half million livres, in silver, which was transported in wagons to Philadelphia. One of his accounts states "in sixteen ox-teams." Neither Paine nor his chief, Colonel Laurens, could have failed to be interested in the proceedings of the General Court in those early days of February, when preparing for their voyage; for in order to hasten their departure, which was delayed for want of a full complement of men, twenty soldiers from the garrison on Castle Island, in the pay of the Commonwealth, were permitted by a resolve of the Legislature to volunteer for the intended cruise. *Resolves* : February 6, 1781, p. 83.

The most fruitful theme for study in connection with the history of the Old State House is to be found in the work which was done here by the men who occupied it as legislators. Many years ago, I put on record my own conviction—a deliberate judgment derived from a careful study and comparison of the early laws of the chief American Colonies as the foundation of all our later jurisprudence—that "Massachusetts has given the law to the United States more literally than either her friends have ever cared to claim, or her enemies would be willing to acknowledge; and the diligent student of legal antiquities may recognize in her earliest codes principles of reformation which have since pervaded the whole realm of English Law." I have nothing to take back. May I be permitted to repeat another sentence of my own uttered elsewhere on this point?

"The great Puritan leaders of Massachusetts knew how to extricate the most precious roots of the Common Law

of England from the mischievous growth of feudalism and hierarchy in which they were choked ; and the separation of the church order of New England was not more thorough than that of its civil state, from the abuses of and in both, which had made the ancient home of their fathers no longer sanctuary for them, and were already sweeping its altars and its throne into the abyss of Civil War."

Successive generations maintained the traditions of their " wise and pious ancestors "—and these ancient and honored walls will bear mute testimony to that wisdom and piety so long as they are permitted to stand guarded and protected by the hallowed memories of the history of Massachusetts as no other structure is or ever can be. Mr. Ruskin affects to despise America as a land in which there are no castles, consecrated by old-time tales of chivalry, wondrous stories of kingly pride and princely power, of knightly valor, lords and ladies gay, with all the furniture and decorations of a mediæval civilization, and grim with the savage traditions of hereditary " wars and fightings," the perennial fruitage of human depravity. For this deficiency in her inheritance, Mr. Ruskin despises America. Boston will deserve the contempt of all right-minded men, when she fails to cherish, in all her culture, the cult of patriotism, and the traditions of her Old State House !

Here also was the principal theatre of deliberation and action in the great Constitutional movement from 1776 to 1780, including the work of both Conventions, whose chief labors were performed in this building. In all those long trials at Constitution-making—then a new business in the world's history—the endeavors to perfect and establish the fundamental law were mainly exerted within these walls.

Either of these Conventions would furnish subject and material for more than one paper suitable for this Society, whose object I understand to be to preserve the record of everything connected with the history of the town and city of Boston, and the Old State House as the central monument of its local antiquities—its grand MUSEUM OF

MEMORIES. I can give only rapid and superficial sketches or outlines, which I trust may stimulate some of you who are members of the Society, to do justice to these topics hereafter. I have been assailed already without warning, as a trespasser upon these historical preserves, by a high official in your City Government, in a document printed at the expense of the City; in which my first paper here has been reproduced in part, with comments whose justice or propriety I do not feel at liberty to discuss upon this occasion.

The first Constitutional Convention in Massachusetts began its sessions on the 17th of June, 1777, in the Representatives Chamber in this building. The record of its doings has not been printed; and although the legislature was the Convention, few of its meetings are indicated in the Journal of the House,* being noticed only when the day's session of that body was interrupted by that of the Convention. A Committee of one from each county selected by the members of the several counties, and five at large appointed "by written vote of the Convention," was charged with the duty "to draw up a Constitution or Form of Government;" which was duly reported on the 11th of December following. An edition of three hundred copies was ordered to be printed for the use of the members solely, and uncommon pains were taken to prevent its publicity.

On the 15th of January, 1778, the Convention proceeded to consider the work by paragraphs. A few days later an attempt to clear the galleries failed, a fact which is interesting, as showing that the galleries were not neglected at that time by the public. Little is known, however, of the debates,† which continued during twenty-

* The meetings of June 17th and 18th, September 18th, when "the House adjourned for a Quarter of an Hour, for the Convention on Government to sit," December 3d, "for Half an Hour," for the same purpose, are all I have found noticed in the House Journal.—*Journal*: 28, 29, 78, 129.

† One very important speech on the negro question has been preserved. It may be found in my *Notes on the History of Slavery in Massachusetts*, 1866, pages 187-191.

three days of January and February, ending on the 28th of that month, when the report in whole as amended was adopted by a vote of thirty-nine out of fifty-three. Provision having been made for the proper arrangement, etc., of the articles, and six hundred copies ordered to be printed, the Convention dissolved on the 6th of March. Meantime the Legislature, immediately upon the completion of the work, provided by a suitable resolve for its submission to the people, and ascertaining their decision upon it. It proved an ignominious failure, being rejected by a popular vote of 5 to 1, for reasons which I must not recite now, but respecting which I cannot refrain from saying that the historians seem to have been singularly at fault in attempting to set them forth. Whether the Constitution of 1778 deserved its fate or not, the men who made it are entitled to a better record of remembrance than to be charged with having assumed constituent powers without authority from the people, a charge utterly without foundation. If there be any fact patent upon the whole record, it is that the majority of the members of the House of Representatives were, at their respective elections, instructed "in one body with the Council to form such a Constitution of Government as they should judge best calculated to promote the happiness of the State." There is not the slightest evidence of any usurpation whatever of the authority referred to. The chief questions in dispute among the people at that time, grew out of the hasty legislation of 1775, on the subject of representation; which created glaring inequalities, the attempted correction of which in 1776 gave an unwieldy character to the popular branch of the legislature, which has never been wholly outgrown.

The second Convention, which accomplished its task in the production of the successful Constitution of 1780, first met in the Meeting House at Cambridge on the 1st of September, 1779, and adjourned on the 7th, after a session of a week. They met again in the same place on the 28th of October, adjourning the 11th of November.

Their third and longest session began in the Representatives' Chamber, in this building, on the 5th of January, 1780, and continued until the 2d March, when their principal work was finished, and ready for submission to the people of the State. The final session, which was held in the Brattle St. Church (the Legislature being at that time in session here), from June 7th to June 16th, was chiefly to record their success and take the necessary steps toward putting the new political machine in motion.

Upon meeting here their first order upon proceeding to business was that the galleries be opened during the sitting of the Convention. *Journal*: 57. And their readiness for public access and observation was further illustrated, when, on account of the inclemency of the weather, on the 29th of January, the northwest corner of the chamber itself was duly appropriated to the convenience of such gentlemen as might be inclined to be present at the debates, instead of the gallery. *Ibid.*, 64. On the 1st of February, the cold weather having moderated, the galleries were again ordered to be opened. *Ibid.*, 69. On the following day, by a special order, the seats in the northwest corner of the chamber were assigned (while unoccupied by the Convention) and appropriated to the convenience of such members of the Council of the State as might incline to be present at the debates. *Ibid.*, 73.

These incidents add something to our sources of information respecting the shape and condition of the Representatives' Chamber at that time.

I am forbidden by the want of time on this occasion, to make more than a passing reference to the detail of work in that Convention, and the character of the men who achieved it. The constitutional history of Massachusetts would furnish a magnificent theme for an abler pen than mine, after all that has been written on the subject; and its study would reward a diligent scholar with many novel discoveries, affording brilliant opportunities for criticism and the correction of errors.

But I may recall your attention to the principal fact

that here, also, after all the delays and experiments in forming a government; upon the adoption of the first Constitution of Massachusetts, framed by the people represented in Convention, and approved by them in their respective towns and plantations, the first General Court of the Commonwealth of Massachusetts was begun and held on the last Wednesday in October, 1780.*

When, seven years later, the first and best fruits of Federalism were to be harvested, in the final adoption of the Constitution of the United States, it was in this building that the Legislature of Massachusetts adopted the proposed plan for a State Convention to determine upon that Constitution. The report of their deliberation and debate upon this momentous subject gives us an interesting glimpse of the scene here, on the 24th of October, 1787. I quote the language of an eye-witness:

“The galleries were crowded, and hundreds of spectators were admitted on the floor and in the unoccupied seats of the House, drawn thither by their extreme curiosity and impatience to know the result of this novel and extraordinary debate. A motion was made to change the place of meeting [of the proposed Convention] from ‘State House in Boston’ to ‘Court House in Worcester,’ and another to substitute ‘Old York;’ on which Dr. Cony † suggested, in view of the disposition to accommodation, etc., as Worcester was one extreme, and Old York another extreme, and Boston a medium, the motions be withdrawn—which was done.” *Centinel*, October 27th, 1787.

A few days later, some anti-Federal handbills being thrown into the Representatives’ Hall, a gentleman who was in the gallery at the time “observed with pleasure that they were trampled under feet with great contempt.” *Ibid.*, November 21, 1787.

* “The first setting of the General Court of the COMMONWEALTH of MASSACHUSETTS.” The last one of the State “convened by the Writts of the Major Part of the Council” had been prorogued on the 4th of October, 1780. *Ms. Journals*.

† Dr. Daniel Cony, then member from Hallowell.

As you well know, the Convention of Massachusetts, upon which so great a weight of responsibility then rested, was appointed to meet soon after the new year came in. The sessions of that important body also began under this roof, although it was at once apparent that the most commodious, if not the largest, edifice in the town, would be required for their accommodation. The first stanza of a patriotic poetical effusion of the day, preserves the sentiment of the occasion too happily to be forgotten here :

“ The ’Vention did in Boston meet,
But State House could n’t hold ’em ;
So then they went to Fed’ral Street,
And there the truth was told ’em !
Yankee Doodle, keep it up,
Yankee Doodle, dandy,
Mind the music and the step
And with the girls be handy !”
“ From a late Phil. Paper,” *Centinel* : Mch. 5, 1788.

A New York newspaper states, under date immediately following the adjournment of this Convention, that it was “ held in a house which will contain 4,000 persons,” and “ unless seats were taken early in the morning, there was no possibility of crowding in.” *Greenleaf’s N. Y. Journal* : February 7, 1788. I have hardly dared to inquire whether this statement was derived from a Boston journal !

The Convention met at the State House on Wednesday, January 9th, 1788. The next day, having found the Representatives’ room too small to contain them, they removed to Mr. Thacher’s meeting-house. On Friday, the 11th, the meeting-house being too large and high to hear one another, they got tired of it ; and on Saturday, 12th, returned to the State House. The number, this day, was three hundred and twenty-nine. On the Monday following, they complained of the place as too much crowded and the unwholesome air—the weather being “ extreme cold.” On Tuesday, they appointed a Committee to provide some other place, and finally pitched upon Dr.

Belknap's meeting-house in Long Lane,* which was made ready and occupied by the Convention on Thursday afternoon. Notes by Dr. Belknap, *Proceedings M. H. S.*, March, 1858. You are all familiar with its glorious work and grand results !

I return for a moment to the history of the building itself and its changes.

There is not the slightest reason to doubt that the plan of the committee of October, 1776, was duly carried out, and that a space equivalent to the full width of the old Court Chamber was added to the capacity of the Representatives' Hall. The change was a simple one which transferred the western staircase and lobby to the outside of the enlarged chamber, enlarging also the gallery and preserving the access to it, without which it must have been abandoned. That there was no disposition to give up the gallery is amply shown by the preservation of the staircase. Had the committee been willing to do so, they might have gained the whole westerly space to the exterior wall—a symmetrical addition of eleven feet in the extension of the Chamber, which would have made it in 1791, sixty-eight feet and a half in length. However limited or inconvenient the gallery may have been, it continued to be maintained in use, to the end of the legislative occupation of the building.

The conventional "up" and "down" between the House and the Council, which are constantly repeated in their official records, had of course no relation to material elevation or depression, for their respective chambers were on this same level second story in the Court House, and separated only by a passage-way or entry of moderate width. Yet I have noticed few occasions upon

* The meeting-house which formerly stood at the corner of Long Lane and Berry St., built in 1744, taken down in 1809. A brick meeting-house, in the gothic style of architecture, was built on the spot the same year. A view of the old church is in the *Polyanthos*: October, 1812. The name of the Long Lane was changed to Federal Street after the Convention was held there.

which the Secretary seems to have forgotten for a moment the formal etiquette of expression. On the 2d of October, 1777, he recorded the fact that "The Honorable Council then came into the Representatives' Chamber, and the Hearing* was attended by the whole Court." *Journal*: 96. An earlier instance was in the beginning of the session, May 27, 1773, when "The Speaker and the House accordingly went into the Council Chamber," etc.† *Journal*: 8.

The changes in the condition and arrangement of the various parts of the building after the re-occupation in the latter part of 1776 were not important and need but a passing notice. The first day, however (November 12), produced an order in the Council "that William Phillips procure cloth to cover the tables in the Council Chamber." *Council Minutes*: xx. 36. This conveys an intimation that this present table was not here at that time. The same day, in the House of Representatives, the question was put, "Whether the branch‡ which used to hang over the Clerk's table . . . should be repaired, provided it could be done for ten or twelve pounds, and passed in the negative." *Journal*: p. 152. More than a year later (December 9, 1777), a committee was appointed "to get the branch'd Candlestick, that used to hang over the Clerk's Table, repaired." In the afternoon of the next day, the committee reported "that it could not be repaired under the sum of £60. Whereupon, on motion, that the Committee aforesaid be directed to get the said

* This was a hearing by counsel before the whole Court, allowed to Robert Pierpont, Esq., of Boston, in answer to charges exhibited against him by the Committee of Correspondence, etc., of the town of Boston. Pierpont was Commissary of Prisoners. *Journal*: 96, 100. Robert Pierpont had distinguished himself in Boston as early as 1773, by emancipating his slaves. *The Appendix, etc.*, page 12.

† Similar instances are frequent in the Journals during the exile of the General Court from Boston, when they met in Cambridge, and the "*Philosophy Chamber*" of Harvard College was the Council Chamber of the Court.

‡ This was the "brass branch of candlesticks" given by Mr. Royal in 1748 —noticed in my first paper: pp. 21-22.

Branch repaired in the cheapest and best manner, the Question was put, and it passed in the Negative," and it was further "ordered that Mr. Greenough apply to the Vestry of the North Church in Boston, for the use of one or more of the branched Candlesticks there, and to assure them that the same shall be returned next Spring, in the Order in which they shall be received." *Journal*: 136, 137.

Whether the Church favored the House in this matter, or declined to lend their candlesticks, does not appear, but in the following year, on the 15th of October, it was ordered, That Colonel Dawes employ some Person to repair the Branch that used to hang in the Representatives' Chamber. *Journal*: 81.

The decorations of the Council Chamber were augmented in 1777 by the addition of the trophies from the Field of Bennington—"one drum of Peters's corps [of tories] and one complete suit of arms of Riedesel's dragoons, presented by General Stark to the State of Massachusetts." * *M. H. S. Coll.*, ii. 29. Transferred in 1798 to the present Senate Chamber they still suggest the story of that great Northern success which ensured the French alliance, which in the opinion of some had been greatly hazarded by the premature Declaration of Independence in July, 1776.

The "historic codfish" which had disappeared from its accustomed place, probably during the British occupation of the town, was restored in 1784. On the 17th March in that year, on the motion of Mr. John Rowe, leave was given by the House of Representatives to restore the image as a memorial of the importance of the cod-fishery to the welfare of the Commonwealth. It was accordingly replaced and kept its position until 1798, when it was transferred to the exalted place it now occupies in the State House near Beacon Hill. I trust that the City of Boston will reclaim it as well as the Stark trophies under the authority of Chap. 47 of the Resolves of the Legislature, 1883, which authorizes the transfer of "any old fur-

* December, 1777. See *Journal*: 132, 133. *Resolves*: 7.

niture or other articles used in or identified with the Old State House."

I will not allow the name of John Rowe to pass without some words of remembrance. He was an eminent merchant who dealt largely in fishermen's supplies. 2 *M. H. S. Coll.* iv. 84 note. He was also a patriotic citizen, and at the great meeting of the 16th December, 1773, was responsible for a very serious hint in the form of inquiry "Who knows how tea will mix with salt water?" *Tudor's Otis*: 419.

The restoration of the codfish was the occasion of some pleasantries in the newspapers at the expense of a certain member of the House of Representatives, who seems to have continued the occupation of a fish-pedlar during the session of the General Court! The simplicity of manners at the time was not so universal and thorough as to protect this individual in the indulgence of his inclination to vary the labors of legislation by the pursuit of his lawful calling: for in the *Massachusetts Centinel*, of July 3, 1784, vol. i., No. 30, "an epigram on seeing an Hon. Member of the H. of R. hawking fish for sale" is supplemented by "An Answer to the Quære in Messrs. Edes paper of Monday last, respecting what punishment ought to be inflicted on a statesman for hawking fish, while receiving pay from the State.

"As *something* is needed, o' the *species* or *kind*,
That our rulers might always keep fishing in mind,
I think the Assembly would adopt the right plan,
To take down the *fish*,* and *hang up the man*."

The Old South congregation occupied the Representatives' Room in the Old State House, for religious services, five months between 1781 and 1782. Wisner's *History of the Old South Church*, p. 34, note. Preaching was resumed in the old church itself on the 2d of March, 1783—

* "A fish that hangs in the Hon. the Representatives Hall, to bear in remembrance that staple commodity of this Commonwealth."

the first time after the British desecration of the building in 1775. *Continental Journal*: March 6, 1783.

On Friday, February 18th, 1785, at one o'clock P.M., His Excellency, John Hancock, met the Legislature convened in the Representatives' Chamber by appointment, to resign his commission as Governor, on account of his impaired health. The two branches had a falling out with respect to the arrangements, the record of which preserves very important information respecting the arrangement of the benches in the Representatives' Chamber. The House had assigned the seats as follows:

Chair for the Hon. *Speaker* in front of the *north side of the room* and *Representatives* to sit on that side.

Chair for President of the *Senate*, and the seats in the *southwest corner of the room* for Members of the *Senate*.

Lieutenant Governor and Council to have the *front seats* in the *northeast corner of the room*.

Private gentlemen, etc., to be seated in the *southeast corner of the House*.

Objection having been made by the Senate—upon reconsideration, the usual seats* were assigned for the Members of the Senate, and chairs to be set for the Council. To this the Senate agreed, not without a warning that if the other plan was held to—they should *stand on the floor*. *Journals: Senate*, 303-4: *House*: 287.

In March, 1782, Thomas Dawes was directed to make such alterations in the windows, or otherwise of the State House, as will be for the comfort and health of the Members of the General Court, and the agent of the Commonwealth was directed to supply Mr. Dawes with a suffi-

* Upon the inauguration of the government under the Constitution of 1780, when the two branches met in convention to elect Councillors and fill up vacancies in the Senate (*Constitution*: Chap. ii. Section iii.) October 26th, 1780, the seats around the Speaker's Chair were assigned for the Senators, and on that occasion, the President of the Senate was requested to take the Speaker's Chair. *Journal*: 14, 15. The etiquette of conferences of both houses was settled by a later resolve, February 6, 1781. *House Journal*: 287. *Resolves*: 85.

cient quantity of lead * and lines for the purpose. *Resolves* : 198. A considerable appropriation (£200) was made in July, 1784, to be expended by a special committee in repairs upon "the State House where the General Court now sit, and also to the [Province] House where the Governor and Council sit." *Resolves* : 47. That work appears to have been accomplished during the interval between the May and October sessions. *Journal* : 190. Further repairs were authorized in 1788 to "the steps of the State House." *Resolves* : 23. In the same year the House of Representatives ordered and paid for window curtains. *Ibid.*, 45. Provision was made for additional repairs in 1789, when an item appears in the accounts which shows that mending and cleaning the State House windows from March, 1787, to May 15, 1789, cost the sum of £37.10. *Roll No. 15th, June 24, 1789.*

In June of the latter year, the Commissary General was directed to cause necessary repairs to be made in the floor and stairs in the State House before the next sitting of the General Court. *Resolves* : 33.

All these small things indicate not only the gradual decay of the structure, but a commendable progress of ideas respecting comfort and health among the law makers of the State. These ideas are emphasized in the last of the resolves of this sort to which I shall refer at this time.

1792. June 5. Resolved, that the Hon. Thomas Dawes, Esq., be and he is hereby authorized to provide convenient ventilators for the House of Representatives and gallery, and also an additional lobby or lobbies, together with suitable tables and chairs for the accommodation of the Members of the Legislature, and the despatch of public business, and to lay his account of expenses therefor before the Committee of Accounts for examination and allowance.

The accounts rendered and subsequently allowed indi-

* Leaden weights were in use in the "Old Brick Church" windows before the Revolution. Ellis: *Siege of Boston* : 198. Ellis (*First Church* : 206) quotes the Church Records.

cate a very considerable expense in these improvements and repairs at the State House. It appears that the seats in the Senate Chamber were chairs and that a good supply was provided for the lobbies, of the same article. £9. 4. 8 paid to one Henry Roby "for iron funnel, etc.," may indicate the mode of ventilation adopted. *Resolves*: March 1793, p. 80.

On the 16th of February, 1795, the resolve for building a new State House, authorized the agents for that purpose on the part of the Commonwealth to sell all its right, title, and Estate in and to the present State House—as well as the Province House, etc. Reserving however to the Commonwealth, the right of using and improving the same Estates, until the New State House aforesaid shall be erected and fit for use. *Resolves*: Feb., 1795, p. 52.

This was the first legislative action on the subject, but the proposition for the new Capitol was in agitation two or three years before, and the citizens of Boston with their usual public spirit took the lead in the enterprise. The result is familiar to you all. The present edifice on Beacon Hill was completed and ready for occupation in the winter of 1797-98—when, on the 11th day of January, the Legislature marched in solemn procession from the old house to the new one, which was then duly dedicated "to the most honorable of human pursuits—the honor of God, and the People's good."

On the following day Governor Sumner congratulated them with his fellow citizens at large, on the completion of the new State-House—begun and finished in little more than two years—a monument of the public spirit of the citizens of Massachusetts, as well as a testimony of their respect to our happy political institutions. *Resolves*: 1797, pp. 31, 32.

A writer in the *Columbian Centinel*: January 13, 1798, more than intimates that, like the children of the time in the school houses, the representatives of the people in the Old State House had "left marks with knives and writings with ink, as though those who were sent to serve

their constituents and the public, attended more to mark their initials, &c., than to perform their duty." Those of us, who are old enough to remember the old-fashioned country school-house, the youthful fascination of a sharp jack-knife, and the irresistible attraction of soft and well-seasoned pine, have no difficulty in appreciating this notice of the achievements of the statesmen who had seats in the legislature in those days. Although Jacob Kuhn, the Messenger of the General Court, received fifty dollars per annum for his services in taking care of the building, from and after the day it was abandoned by the legislature, in its empty and deserted condition, it evidently became a constant target for playful and idle youth or other mischievous persons; and the series of appropriations made by the legislature from 1790 to 1800, for replacing broken glass in the windows of the Old State House, furnish conclusive evidence that few, if any, ancient lights remained after the latter date.

A long and very interesting controversy ensued between the State and the Town of Boston, concerning their respective rights of property in the Old State House. There is, of course, no time to tell the story here of the dispute, the law-suits, and the eminent men who appeared in them. I propose to print as a part of this paper a full account of the entire proceedings—an additional contribution to the history of the building, apparently not familiar to its previous historians.*

The result you all know—the town of Boston became the sole owner of the Old State House in 1803.

The proceedings of the town, with respect to leasing the property at this time, indicate a commendable disposition to preserve the external form of the building from any change. An express stipulation was required in leasing that no such alteration should be made without the approbation of the Selectmen. This was some restraint on innovation, and probably contributed to the safety of all that is left of the building.

* See APPENDIX : II.

It is unnecessary for me to discuss the details of the dreadful degradation to which the edifice was subjected during the long period of its neglect and decay, extending from its abandonment by the Legislature in 1798 to 1830, almost rounding up the allotted period of a generation of human life. Suffice it to say that it was a perilous history.

I have hardly the heart to remind you of the later forty years during which these old walls were "made to pay" in the way of business, before their final rescue. The chosen people might as well have rented the "ark of the covenant" as a place of safe-deposit for their personal treasures. I charge you to see to it that no such sacrilege shall ever again be tolerated here!

William Tudor, writing in 1822-23 with reference to the year 1761, said that "like all the interior parts [of the Old Town House—the Council chamber] has since undergone various alterations. At that time it was an imposing and elegant apartment." *Life of James Otis*: 59. No man knew better than he how great the changes had been, chiefly within his own recollection, for he was nearly of age when the building was abandoned by the legislature and must have been familiar with every part of it afterward.

For ten years immediately preceding its reconstruction in 1830, a large part of this building was occupied for the imposing services of Free Masonry, and the greater part of the old Representatives' chamber was made the chief *temple* of the order in the State. It was to this fact that the ancient structure, even in the midst of its degradation to baser uses, owed one of the most brilliant episodes in its eventful history, now well-nigh forgotten, but eminently worthy of being recalled on this occasion. The fourth and last visit of Lafayette to America in 1824-5 is one of the most delightful remembrances of our national history: and no part of it was more thrilling in pathetic interest than the incidents in and near Boston, especially the celebration of June 17, 1825, when the corner-stone

of the Bunker Hill Monument was laid on the 50th Anniversary of the battle. I shall confine my notice of it to what took place here :

“ An eyewitness states that at seven o'clock in the morning State Street was crowded with spectators, of every age, rank and sex, waiting for the appearance of the mystic fraternities, part of whom were organizing in the masonic halls of the Old State House, where the Grand Lodge of Massachusetts held their meeting, and in which their beloved brother, Lafayette, was to be introduced. About nine, he approached and passed up the stairs, out of our sight. He is a tall man, of a ruddy or rather a sunburnt complexion, with strong features and a very gracious smile. His eyes are bright and expressive. He wore a wig, was dressed very plain, in a brown frock coat and nankeen pantaloons, and walked lame, from an old wound in one of his legs. He took off his hat and bowed with that graceful and benevolent air which forever distinguishes a gentleman. I expected to have seen the haughty brow and commanding visage of a military chieftain in this great man . . .

“ The interview of Lafayette in the Grand Lodge, is described by one who was present, as very interesting. He was received by a large circle of masons, of every degree, and addressed in a very handsome manner by the Grand Master. He was then introduced to men of high office and character, in the fraternity, who had come from several states, as visitors of the day. He was shown some of the venerable hair of the great Washington, a silver lock of which was encased in a glass and preserved with great care in the archives of the lodge,* as a memorial of their affection for their ancient grand master who is so truly called the Father of his Country.” *Boston Monthly Magazine* : i. 146.

M. A. Levasseur, who was Lafayette's Secretary dur-

* This relic was among the regalia of the Grand Lodge in a gold urn borne by the Deputy Grand Master, in the procession on that day.

ing that famous journey, has left a brief notice of the event to which I now refer.

"The sun of the fiftieth anniversary of the battle of Bunker Hill arose in full radiance, and thousands of voices uniting with the joyous sounds of the bells and reports of artillery saluted it with patriotic acclamations. At seven o'clock in the morning, passing through a crowd agitated by glorious recollections of the 17th of June, 1775, General Lafayette went to the grand lodge of Massachusetts; where deputations from the grand lodges of Maine, New Hampshire, Rhode Island, Connecticut, Vermont and New Jersey, had joined the officers of the chapter and knights of the temple, to receive and compliment him."

Upon the formation of the procession at a later hour "the grand master and deputies of the masonic order, went for General Lafayette to Mr. Lloyd's, where he had retired on leaving the temple." *Lafayette in America*: ii. 202-3.

In 1826, warned by experience which was emphasized by a destructive fire* in Court Street the 9th-10th November, 1825, fifteen reservoirs were provided for accumulating water—each of the capacity of 250 hogsheads, *Quincy*: pp. 192-3, and adding not less than 250,000 gallons to the available supply. *Ib.* 264.

Of these public cisterns or reservoirs "No. 3, near Old State House" was one. February 18, 1826, it had "just been completed, in State Street. It was made of brick, 18 feet deep and 18 in diameter, with a column in the centre to support the arch thrown over from the sides sufficiently strong to resist every weight. It was found on removing the earth, that State Street has been raised

* The "great fire" of November 9th-10th, 1825 involved the destruction of Brooks's buildings in Court Street, in which were many lawyers' offices and among them that of James Savage. Mr. Savage was at that time about half through with his edition of Winthrop's *History of New England*; and the second volume or part of the original MS. shared in the destruction of his library and other historical MSS. at that time. Savage's Winthrop: ii. 13 note. Vol. XIX of the Trumbull MSS. perished with many other treasures in that sad conflagration. *Ib.* ii. 217 note.

between two and three feet above its original surface." The patriotic reporter who recorded these statements added his opinion that "The location of this Reservoir will long mark the spot where Attucks, Gray, Caldwell, Maverick and Carr fell on the memorable 5th of March, 1770." *Boston News Letter and City Record*: 100. His sanguine expectation was speedily disappointed, when both the reservoir and the monumental pump which was soon connected with it disappeared in the rapid advance of municipal improvement.

The proceedings of the Washington Monument Association, July 19th, 1826,* were perhaps the most dangerous threat to the Old State House, coming from the class of men to whom the associations which alone give it value are most familiar and impressive. When such men as John Lowell, James Lloyd, John Davis, John C. Warren, William Sullivan and Edward Everett, casting about for a place of shelter or establishment of Chantrey's statue recalled in fitting words and with unmistakeable emphasis a part of the facts of Washington's connection with and consecration of this building, and in the same breath demanded the "*removal of such an incumbrance on the most thronged street in the metropolis*"—its old walls might well have shuddered down to their very foundations, among which the reconstruction of 1830 revealed fragments of the grave stones and bones of the ancient inhabitants, if it did not determine the site of one of their oldest burial places.†

The proposition of the Washington Committee elicited

* Printed in *Boston News Letter & City Record*: ii. 57-59. Cf. pp. 71, 114. They are also in *Daily Advertiser*: July 31, 1826.

† *Boston Patriot*: June 19 and July 7, 1830. *Boston Courier*: June 18, and 25, 1830. *Saturday Evening Gazette*: June 26, 1830 and July 3, 1830. The article in the *Boston Patriot* of June 19, 1830 shows that they took the grave-stone fragments "from among the underpinning of the steps on the North front." And in the same paper, of July 7th following, it appears that "those who have examined the foundation walls of the Old State House, recently cut through in several places," found "that they consist of a mass of heterogeneous materials, and indeed, are very little better than rubble."

a communication from a writer who signed himself "'75," demanding that the City Councils should not venture without submitting the project to the citizens at large, to make any disposition of the Old State House, etc., "valuable for the recollections connected with them, and, on that account, peculiarly cherished by the public." *Palladium*: August 4, 1826.

This brought out the following (*Ibid*: August 8, 1826): "Messrs. Editors: I think the fears expressed by the Correspondent, '75' in your paper, are quite unnecessary. For, to prefer a building, like the Old State House, to stand in the most conspicuous place in the city, to an elegant open building to contain the STATUE of the immortal WASHINGTON, is a preference which the citizens of Boston are not likely to approve. S."

In 1828, these venerable old walls had a narrow escape from an ignominious and destructive change. On the 15th of October in that year, a proposition was made and referred to a committee of the Board of Aldermen, to repair the exterior of the building, "particularly in reference to covering the walls with cement in imitation of granite or marble." Fortunately the committee had the good taste to report on the 20th October, that it was not expedient to take any order on the subject. *Records*: vi. 317, 326.

In 1830, this entire edifice was reconstructed, excepting the walls and the ancient frame timbers of floors and roof, the skeleton, as it were, of the original structure. The plan of this reconstruction, as drawn by the architect to whom that work was assigned, is well known to you all—having been the guide and chief basis of the restorations of 1882, whose present convenience and propriety we here witness and applaud. We must not, however, make the mistake of supposing for one moment that these Memorial Halls with the adjoining ante-rooms between them and the central circular staircase and passages by which they are reached and communicate are a counterpart or reproduction of anything which existed here prior to 1830. The exterior walls and decorations of this building have been

partly restored—to them alone and their appurtenances can the word restoration be fitly applied: all else is reconstruction.

This is not the time or place for controversy—but in view of the notice which has been taken of my first paper, in the recent edition of the *Memorial of the Old State House*, I may be permitted to add that I shall justify all my statements which have been questioned, in the Appendix to be printed with this paper.* I have no need even to modify, much less to recall any one of them.

As early as April, 1829, a movement had been made looking to the transfer of the City Post Office and the News Room which had been kept at the corner of Congress and Water Streets, to the Old State House. As the time drew on in which the current leases would expire, the matter commanded more attention and the advantages of such a change were freely discussed. The chief opposition seems to have been from the local interests in the neighborhood of the old place; and the new location soon became very popular.

The proceedings in the City Council from the middle of February to the middle of April, 1830, resulted in a lease of the lower floor, and a small upper room, for the use of the Post Office and News Room. A proposition immediately followed for the improvement of the cellar and chambers of the building, with a view to an increased rental, and plans were prepared.

It was not, however, until after the middle of June, 1830, when the workmen had already commenced operations upon the building to fit it for the accommodation of the Post Office and News Room, that the project of providing here suitable apartments for the City Government appeared and took definite shape; and I cannot resist the impression that it was to Harrison Gray Otis, then Mayor of the City, more than any other man of his time, that we owe the preservation of what remains of the Old State House. The success of his proposition to make it sub-

* See APPENDIX: III.

stantially the City Hall, took it out of the category of a mere "house to let," and renewed its standing and prestige as a public building. *Esto perpetua!*

On the 21st of June, 1830, the Mayor, by special message, after referring to the relations and interests of the city, in respect to the public buildings at its command for public purposes, recommended the giving to the Committee charged with the alteration and repairs of the Old State House full power to prepare in that building chambers for the accommodation of the Mayor and Aldermen and Common Council, and such of the city offices as could be conveniently provided for in those premises. This recommendation was immediately sanctioned by the City Council, etc. *Quincy*: pp. 307-8, corrected as to date, which he prints "24th." The Mayor had examined the plans, etc., and mentions both "*the present County Court House*" and "*the Court House in Court Street.*" *Records M. & A.* viii.: pp. 163, 164.

"In Common Council last evening (special session) [June 23, 1830] the committee appointed at a previous meeting to investigate and report on the expediency of preparing the second floor of the Old State House for the accommodation of the two branches of the City Council and the offices *now located in the new Court House*, reported in favor of the plan, and the report was unanimously accepted. An order passed, instructing the Committee who have the superintendence of the repairs, to prepare chambers accordingly. The President of the Common Council was added to the Committee." *Boston Courier*: June 24, 1830. This order was approved by the Board of Aldermen at a meeting on the 2d of August, when the "order of the other board—the Common Council—adopted at its recent special session was concurred in, directing the Committee on repairs of the Old State House to fit up the apartments intended for the two branches "in a manner suitable to the edifice and creditable to the city." *Daily Advertiser*: August 4, 1830.

The Boston Post Office was removed to the Old State

House on Saturday evening, September 11, 1830. Topliff's News Room was opened there for public inspection on Monday evening, September 13th, and much admired for its neat and elegant appearance. It was brilliantly lighted with gas. *Boston Patriot*: September 13 and 15, 1830.

In the Board of Aldermen, *Friday*, September 17, 1830: the Board having met according to adjournment in their new hall in the Old State House, a resolve of the Common Council was read—requesting the Mayor and Aldermen to give a name to the edifice, appropriate to the public uses to which it is hereafter to be devoted—which was concurred in, and it was

Ordered, That hereafter, this building be known and called by the name of CITY HALL, and that the Mayor be requested to communicate to the Common Council in Convention the name which they have agreed to give it.

The two branches then met in Convention in the Common Council room, and the Mayor addressed them upon the occasion of naming the building, after which the two branches joined the procession and proceeded to the old South Church. *Boston Patriot*: September 20, 1830.

It is difficult to preserve the perishable forms of material existence, and it is impossible to restore them. But the remains of ancient architecture are the oldest and most instructive monuments of human endeavor; and the history that is in them is imperishable. You have still here a great part of the old walls of this building resting in position, undisturbed through all the mutations of one hundred and seventy-four years (1712–1886). They hold in their firm and lasting embrace the best and most hallowed traditions of the heroic age of Massachusetts. Be it yours to cherish and preserve them! If you teach your children their lessons with fidelity, they will never be shamed or disgraced. Let the ancient records be revived! Let the homely hearth-stones and altar-fires of Freedom be renewed! Let the neglected cult of patriotism be restored!

The rehabilitation of 1830, which restored this building to public uses chiefly, involved the entire reconstruction of the interior, and the architects indulged in a large amount of external improvement (as it was termed) which fortunately consisted mainly of additions. They were unmercifully ridiculed by the press of the day, as it noted the progress of the work and the alterations inside and outside the entire building. A faint, almost unconscious tribute of continued remembrance of the traditions which should have preserved the structure, gives a sort of melancholy interest to the gibes and jokes of the newspapers at the expense of the Committee of Reconstruction and their architects. These very pleasantries suggested the illustration of filial piety which warms our hearts as we recal the eloquence which consecrated these halls anew when the City Council first assembled in them on September 17th, 1830, and when, as was most fit and proper, the celebration of Boston's Bi-centennial Anniversary began here.

Boston then rejoiced in a chief magistrate whose lineage, personal character, and mental equipment, honored his station, and on that occasion elicited a contemporary tribute of admiration, with which I will not hesitate to enrich my effort to recall it. Harrison Gray Otis was then Mayor, a citizen, "the persuading eloquence of whose tongue, the courteous dignity of whose manners, the munificent hospitality of whose home, and the exemplary purity of whose life had long and justly rendered him the pride and ornament of 'the city of the pilgrims.'" *Boston Patriot*: September 20, 1830.

Standing in his place in the adjoining hall, as Chief Magistrate of Boston, he pronounced that address of consecration which ought to be reprinted in every Memorial volume of the Old State House. His was the voice which caught and transmitted with truthful skill and marvellous fidelity the distant tones already becoming indistinct, of that revolutionary oratory with which these old walls had echoed and trembled through all those years of

trial and days of triumph. I will quote but one paragraph :

“ I refer you to the day when Independence, mature in age and loveliness, advanced with angelic grace from the chamber in which she was born into the same balcony, and holding in her hand the immortal scroll on which her name and character and claims to her inheritance were inscribed, received from the street, filled with an impenetrable phalanx, and windows glittering with a blaze of beauty, the heartfelt homage and electrifying peals of men, women and children of the whole city. The splendor of that glorious vision of my childhood seems to be now present to my view, and the harmony of that universal concert to vibrate in my ear.”

That classic oration of Harrison Gray Otis restores for us “ the golden age ” of Boston, and leaves little to be said here and now, excepting by way of recollection and (I trust not *vain*) repetition. Demosthenes in view of the Acropolis and the long walls of the Peiræus, or Cicero, standing among the monumental glories of Rome herself, never breathed a more genuine inspiration of patriotic affection than that which remains to us in those words which he spoke to the City Council here for the first time. And in conclusion, as I renew my thanks for your continued kindness and patience, I have only to repeat his charming invocation—“ May the guardian genius of *this* beloved city forever delight to dwell in these renovated walls ! ”

APPENDIX.

I.—MASSACHUSETTS COLONY—PROVINCE—STATE—COMMON-WEALTH.

THE British possessions in America had been variously known or described as Colonies, Provinces, Plantations, Governments, Territories or Dominions, down to the time of the Revolution; and I have met with no precise definition with authority of the meaning and difference of any of those terms of description. Yet I have noted a preference of the name of *Colony* to that of *Province* among the inhabitants of New York as early as 1704, although at the same time it was admitted by their representatives that the word *Colony* was “used in most of the Letters Patents as synonymous with *Province* to express the Settlements in the Plantations and so stiled in divers Acts of Parliament.” *Journal of the General Assembly of New York*: May 10, 1704. There may have been an impression, more or less potent in the minds of the people, that a Colony might be more nearly autonomous than a Province, which name may have carried with it to some minds a suggestion of subjection as of a Roman dependency.*

In Massachusetts, the word Province defined an extent of jurisdiction embracing more than one of the original colonies or plantations—for the second charter united, erected, and incorporated into one “Real [Royal] Province” the various “Territories

* Anthony Stokes, an English barrister who had been Chief Justice of the Colony of Georgia, in his “*View of the Constitution of the British Colonies*,” etc., Chap. i. page 3, says that “for some time before the Civil War broke out in America, the popular leaders there affected to call the Provincial Establishments, or King’s Governments on the Continent “Colonies” instead of “Provinces;” from an opinion they had conceived that the word Province meant a conquered country. It is said in *Show. Parl. c. 31*, that Colony or Plantation does not import a conquest, but rather the contrary.”

and Colonies commonly called or known by the Names of the Colony of the Massachusetts Bay and Colony of New Plymouth the Province of Main the Territory called Accadia or Nova Scotia and all that Tract of Land lying between the said Territories of Nova Scotia and the said Province of Main."

The words Colony and Province, however, continued to be used somewhat indiscriminately to the end of the royal authority. The first chapter of the laws of 1775 is entitled "*An Act to confirm and establish the Resolves of the several Provincial Congresses of this Colony.*" On the 7th of August, 1775, the Clerk of the House of Representatives was directed to strike out the word *Province*, if it should be inadvertently made use of in any resolve, and to insert the word *Colony* in its stead. *Journal*: 51. On the 26th September, 1775, a joint committee was appointed to form a proper preamble or introduction to the acts of the Colony which had been passed during the previous session. In their report on the 30th, the word *Province* was used, which the House promptly changed to *Colony*. *Journal*: 118, 130. On the 3d of November, 1775, John Adams tells us that he "mortally hated the words 'Province,' 'Colonies,' and 'Mother Country,' and strove to get them out of the report" of the Committee of Congress who were charged with the business of formulating advice to the respective colonies respecting their new governments. He could not prevail altogether, and was delighted to secure the omission of "Mother Country." *Works*: iii., 21. Shortly afterward, upon another similar occasion, he tells us that he "labored afresh to expunge the word 'Colony' and 'Colonies' and insert the word 'State' and 'States;'. . . but the child was not yet weaned." *Ibid.*, 22. He was doubtless more at ease when, on the 9th September, 1776, the Continental Congress resolved that in all continental commissions and other instruments, where heretofore the words "United Colonies" had been used, the style be altered for the future to the "United States." *Ibid.*, 75. *Journal*, of that date.

In Massachusetts, the Declaration of Independence was proclaimed from the balcony of the State House on the 18th of July, 1776. The Colony legislature had adjourned five days before, and re-assembled on the 28th of August, when the formal announcement of the great event was communicated to the House of Representatives by the Council. The reply from the

House to that communication was not determined on until the 4th of September. On the 10th of that month, an order having been made to desire Mr. Revere to alter the word "Colony" in the plate on which the bills of credit were to be struck off, and insert "State" in the room thereof—

"On motion, That the House would determine whether the word *Colony* and *State* be used promiscuously in all the proceedings of this court; the question was put, and it passed in the negative." It was also ordered, that Mr. *Pitts*, Mr. *Ellis*, and Col. *Bliss* be a committee to bring in a resolve to establish the use of the word "State."

I have found no report from this committee, or resolve in accordance with their instructions; but it is evident on every page of their subsequent proceedings that the use of the word *State* was promptly established and maintained. *Journals and Resolves, passim.*

The first constitution proposed for Massachusetts, with the name of *State*, was a failure, as is well known. The second and successful attempt to formulate the fundamental law, following the fashion of Virginia and Pennsylvania, established what has ever since been known as the *Commonwealth* of Massachusetts. The members of the Convention were apparently unconscious that they were restoring a name which their fathers had been reluctantly compelled to relinquish a little less than a century before.* John Adams was "the putative author" of the work; and although unable to stay and conduct it through the ordeal it was destined to undergo in the Convention by which it was finally adopted and recommended for establishment by the people, he was there long enough to hear and probably to be one of the majority which "negatived" a proposition to expunge the name of Massachusetts and substitute *Oceana* in its place—a change which would have made the COMMONWEALTH OF OCEANA one of the United States of America!

The alteration of the regnal year to that of the Christian Era was made in the date of the Bill to prevent the forging the

* It was in 1681, that the General Court of Massachusetts repealed "the word *Commonwealth* wherever it imports jurisdiction," and inserted the word "*Jurisdiction.*" *Laws*: Ed. 1672. Supp. 91 *bis*. The same enactment repealed the law which made it a penal offence to celebrate Christmas in any way, or recognize its due place in the Calendar.

Bills of Public Credit, etc. [chapter ix. : 1776], upon a proposal of the House agreed to by the Council on the 12th of April, 1776. *Journal* : 118. On the same day a committee was appointed to bring in a Bill for altering the Stile of Writs, Processes, and Law Proceedings, "that instead of the Stile and Name of the King of Great Britain, some other Stile may be used." *Ib.* Among the alterations in this bill during its progress through the Legislature, the House of Representatives insisted upon substituting in five out of twenty places where the word "Colony" appeared, the word "Government" which they afterwards altered to "Government and People" as it now appears in the act. *Journal* : 193, 195.

The regal style was thus expunged and the new style ordered to begin from and after the first day of June, 1776.* This was to continue "without the Date of the Year of the Reign of any King or Queen of *Great Britain*, until some Accommodation of the *American* Congress, or Act, Order, or Resolve of a General *American* Legislature, or of the Legislature of this Colony, shall be made and passed, otherwise directing and prescribing." *Laws* : 1776, p. 50.

II.—BOSTON'S TITLE TO THE OLD STATE HOUSE.

1798. June 28. A Resolve on the report of the Agents for building the New State House respecting the Old State House authorized them to unite with the persons appointed by the counties of Suffolk and Norfolk and town of Boston, in selling the property, provided the counties and town aforesaid should agree that one half of the nett proceeds should be paid into the Treasury of the Commonwealth.

If they could not agree in the manner specified, the agents were authorized to agree to a statement of the facts relative to the claim of the respective parties to the Judges of the Supreme Judicial Court, with consent that their decision should be final and conclusive. The resolve further authorized the Justices for

* It is amusing to recall here the alarm taken by Hutchinson only three years before, when his encroaching legislature offered to turn into "plain English" the Latin prefixes of the Acts which indicated the year of the King's reign, and the royal style. *Journals* : 1773 : 93. Cf. *History* : iii., 413 note.

the Counties of Suffolk and Norfolk to appoint Agents for the sale, etc., contemplated above, and confirmed such action to be binding and valid, etc. *Resolves*, 1798 : p. 26.

1800. March 5. A resolve was adopted appointing a Committee of the two Branches of the Legislature to confer with the Committee of the Town of Boston upon the subject of the sale of the Old State House, and to make sale of the Commonwealth's interest therein, etc. *Resolves*, 1800 : p. 80.

1800. June. The following resolve was adopted :

Resolved, That the Attorney-General be and he is hereby directed to apply to the Supreme Judicial Court for an order to set off to this Commonwealth their part of the building in the town of *Boston*, commonly called the Old State House, and the land thereto belonging, that the said Commonwealth may hold the same in severalty. *Resolves*, 1800 : p. 28.

1802. March 4, 1802. A resolve of this date recites that : "It appears by the statement of the Attorney-General, that great difficulties arise in the decision of the dispute now pending in the Supreme Court of this Commonwealth, relative to the partition of the Old State House, between the Commonwealth and the inhabitants of the town of *Boston*, and the same cannot easily and equitably be settled in a Court of Law," and authorizes the Attorney-General to submit the question to three referees, to determine finally, in equity and justice, what proportion this Commonwealth is entitled to have and hold of said land and building. *Resolves*, 1802 : p. 57.

The following law report is reprinted, with its accompanying notes, from a contemporary publication.

REPORT OF THE CONTROVERSY BETWEEN THE COMMONWEALTH
OF MASSACHUSETTS AND THE TOWN OF BOSTON, RESPECTING
THE OLD STATE HOUSE.

AT the Supreme Judicial Court holden at Ipswich, for the County of Essex, in June, A.D. 1800, Mr. Sullivan, the attorney-general, presented, in behalf of the Commonwealth of Massachusetts, a petition for partition of the Old State House, which is situated in Boston. The Commonwealth claimed in the petition "to be seized in fee simple and undivided of seven-eighth parts of the estate in common with persons unknown." The

Court ordered publick notice to be given, and assigned a day for a hearing at the term following for the County of Suffolk. At that term, which was holden in February, 1801, the town of Boston appeared by Mr. Lowell, and objected to the petition of the Commonwealth, and claimed to be sole seized in fee simple of the estate, whereof petition was prayed. The County of Norfolk, which was formerly a portion of the County of Suffolk,* also appeared by Mr. Ames, and in their plea denied that the Commonwealth was seized of more than one-half of the estate, and claimed "to be seized and entitled to their proportional part of the demanded premises," but did not specify that proportion. A special jury was, at the motion of the attorney-general, summoned from the towns of Hingham and Chelsea, in the County of Suffolk, to try the issues, which were severally joined between the Commonwealth and the Town of Boston, and between the Commonwealth and the County of Norfolk. After a hearing of the parties, the Court ordered the cause to stand continued to the next term, for the purpose of obtaining further information, and a new day was assigned. At the next term the cause was again heard. The claim of the County of Norfolk, being by the Court considered in aid of that of the Commonwealth, was not permitted to be prosecuted. The jury, after a full investigation, brought in a verdict "that the Commonwealth had no right to the soil, but were entitled to one-half of the building, for the purposes for which it was erected."

Mr. Sullivan appeared for the Commonwealth; Mr. Parsons and Mr. Lowell for the town. The Court were equally divided in sentiment. The Chief Justice, Dana, and Judge Sewall expressed in their addresses to the jury an opinion favorable to the town; the Judges, Bradbury and Strong, insisted that the claim of the Commonwealth was well founded.†

The attorney-general moved for a new trial on the following grounds: 1. That the verdict was rendered against the weight of the evidence. 2. That it was given against the principles of law. 3. That it did not decide the question, which was involved in the issue. And 4. That as the case was to be decided on legal de-

* The division took place March 26, 1793. [It was under the authority of an act of that date—but took place on the 20th of June, 1793. G. H. M.]

† The Judges, Paine and Dawes, being citizens of Boston, did not sit in the cause, and Judge Thatcher did not address the jury.

ductions from facts, which were not disputed, and as there was no decision of the judges on the principles of law, the trial ought not to be considered as conclusive. The action was continued without any decision had on this motion, and at the next term, in Feb., 1802, the parties agreed to refer the case to the Hon. Oliver Wolcott, Esq., of Connecticut, appointed by the Court, the Hon. Benjamin Bourne, Esq., of Rhode Island, appointed by the attorney-general, and the Hon. Jeremiah Smith, Esq., of New Hampshire, appointed by the selectmen and town clerk, "to hear the parties and to determine finally, in equity and justice, what proportion the Commonwealth was entitled to have and hold of the said land and buildings." On 20th July, 1802, the referees met in the senate chamber of the New State House, in Boston, and the parties were publicly heard.

* A right to the soil in Massachusetts, which is included within a line running "three miles to the south of Charles river and three miles north of Merrimack river from the Atlantick to the South sea," was conveyed by the patent of the Council of Plymouth to Sir Henry Rosewell and his associates. In 1628 this title was confirmed by the royal charter of Charles I., the original design of which instrument was to vest in the patentees the powers of a corporation, which should be similar to that of the East India Company. The government of the Colony immediately exercised the right of granting land to the settlers, and to all who came over.

Boston was called by the natives *Shawmut*, and afterwards, probably by the French, *Trimontaine*. In 1630 the court of assistants ordered it to be called by its present name, which was the only account of its incorporation. But in the same manner were other towns incorporated. *Agawam* was ordered to be called Ipswich; *Naumkeag*, Salem; *Mount Woollaston*, Braintree. The peninsula, on which Boston is built, was originally claimed by a Mr. Blaxton.† In 1633 the government of the

* The facts in this case were gleaned from ancient records of the Commonwealth, of the County of Suffolk, and of the town of Boston. Mr. Hutchinson's History of Massachusetts and Governour Winthrop's Journal were frequently quoted at the trial.

† "Mr. Blaxton left England, being dissatisfied there, and not a thorough conformist: but he was more dissatisfied with the non-conformity of the newcomers. He told them, he came from England because he did not like the Lords Bishops, but he could not join with the Lords Brethren. He claimed

colony made him a grant of fifty acres at the west part of the town. This was the only instance shewn, in which the government undertook to grant land in a town, after having given it a name. In 1684 certain aged citizens deposed, before the governor of the colony that the inhabitants purchased of Mr. Blaxton his right to the soil, and that each householder paid him six shillings for releasing his right. But the deed from Mr. Blaxton could not be produced, nor was it shewn that it could be legally demanded, as the first law which made a deed necessary was enacted in 1641, and the release from Blaxton was as early as 1635.

The town produced a deed of release of the soil to them, dated in 1684, from an Indian chief whose name was *Wampatuck*. In the recital of this deed he mentions, that he had been informed by aged Indians and by his own council, that his grandfather *Chickatabut*, who originally owned the soil, granted it to the inhabitants of Boston. But this deed was executed in the time of James II. when the colony feared that they should lose their charter, and was probably fabricated for the circumstances of the times.

Whether the soil, on which the house stands, was originally the site of a fort, or whether it was used for a market place, was very doubtful. The spot was most ineligible for any purposes of defence, and the circumstances of the colony would not permit the construction of a fort for ornament. Before 1635 a fort was built on what is now called Fort Hill. The streets were not named by the authority of the town until 1708. And though Mr. Winthrop, in his Journal, says, that in 1632 a fort was erected "in the cornhill," yet it did not appear, whether the street, where the house now stands, was at that time, as it is at present, called Cornhill, or whether corn was not cultivated on Fort Hill, which might have led Mr. Winthrop to adopt the expression. It was equally uncertain, whether this fort was intended for defence against the French, or against the Indians.

When it was first proposed, that a house should be erected

the whole peninsula upon which Boston is built, because he first slept upon it. He had a grant of a very handsome lot there, at the west part of the town, but he chose to quit all, and removed to the southward, at or near what is since called Providence, where he lived to old age."—1 Hutchinson's Hist. Col. Mass., 21.

for the accommodation of the colony, the county of Suffolk, and the town, the latter proposed, that if any of the citizens would undertake to build the house, they should be entitled to the profits of the building. By this was probably meant, that the publick objects being first attained, the proprietors should be entitled to all advantages, which could be derived from other uses, to which the house could be applied, together with the right of the soil. Nothing was done in consequence of this offer.

A house, which was in 1657 built at the expense of the town by subscriptions obtained from the inhabitants, was used by the respective governments of the colony, the county, and the town. In 1660 the town offered to the general court the use of this building for legislative and other purposes of the government, praying at the same time, that in consideration thereof the court would remit the proportion of the colony tax, to which the town would be liable for one year. The court accepted the offer, and remitted the tax on the further condition, that the county of Suffolk likewise should have the privilege of using the house for the sessions of its courts of justice.* The town always received the rent of the cellar and of those parts of the building, which were not occupied for the above purposes. One half of the expences of repairing that building was paid by the colony, one quarter by the county of Suffolk, and one quarter by the town. In 1693 this proportion was established by law.

After the conflagration in 1711, in which the Old Town-House was consumed, the province designated this spot, being the site of that building, for a new State-House. Accordingly a house, of which the walls of the present were part, was built, and the expense was defrayed by the province, the county, and the town, in the proportion which was established in 1693. That house was partly consumed by fire in 1747, and again repaired. The town remonstrated against its share of the burden. Faneuil-Hall, in which all municipal affairs were then transacted, having been built five years before, the town had no further use for the State-House. In the remonstrance it is said, that the house was

* The time when the general court first occupied this building was not discovered, till after the discussion had been closed. The above fact, which took place in the year 1660, was found by Mr. Lowell in one of the ancient journals of the general court and was by consent of the parties submitted to the referees.

originally built on land belonging to the town. Of that building, which is the subject of the present controversy, the commonwealth, the county, and the town have continued in possession to the present day.

*Sketch of the arguments of Mr. Parsons for the town, and of the Attorney General for the commonwealth.**

MR. PARSONS. The referees are bound by the terms of the submission to decide, whether the commonwealth is seized of any part of the Old State-House, and to declare what the proportion is. Their award will be in the nature of an interlocutory judgment. They have not a discretionary power to leave the law of the land, and to decide on the broad ground of the equity of the case, though the submission might have been expressed, so as that the present decision should have been final.†

A title to the soil in Massachusetts was by the patent to Sir Henry Rosewell and his associates, and by the charter of Charles I. vested in the Old Colony. It is a rule of the common law, that at the dissolution of a corporation, all the lands of which it is possessed shall revert to the donor. But if while in existence it has conveyed land to others, that land in the possession of the grantees will not at the dissolution of the corporation revert to the original donor. If then the old colony conveyed lands of which it was lawfully seized and during the existence of its charter, the dissolution of that corporation will not affect the title of its grantees, or of their assigns.

The inhabitants of Boston are lawfully seized of the soil on which the town stands. We must view the law and the transactions of the times, when Massachusetts was first settled, according to the language and views of those times. Our ancestors brought with them such principles of the common law of England as were applicable to their situation. In incorporating a town, however laconick the act of incorporation, they meant to convey all those rights and privileges, which were well known by them to belong

* This sketch was formed from a few brief minutes, which were taken at the hearing before the referees. If there are errors in the statement of the facts, or in the heads of the arguments, they must be attributed to the writer. At the same time he wishes, that he could have done justice to the eloquence of the learned counsel on both sides.

† The parties finally agreed to interpret the rule, so that the referees should decide the case on its most equitable grounds.

to towns. When the government of the colony ordered this peninsula to be called Boston, they in reality conferred on it, in the simple manner of that day, the immunities of a corporation. To grant lands was one of the prerogatives of the government. But when a town had received a name, the government never assumed the right, except in the solitary instance to Blaxton, to dispose of the lands within its limits. After the settlements had multiplied, and the lands had become valuable, the boundaries of the towns were fixed. This simple mode of conferring the rights of a corporation suited the circumstances of those times. It will be vain to say, that towns could not be thus created. When government gives anything, the grantee acquires by the gift power to receive. Such gift destroys the incapacity, if any previously existed. There is then a reasonable certainty, that the soil on which the house was built belonged to the town. It has not been shewn, that this spot was originally reserved by the colony for the scite of a fort, or for any publick purpose. The first house was undoubtedly erected at the expense of the town. If that house was used by the colony for legislative purposes, it was without question with the consent of the town, who did at that time and have ever since continued to derive advantages from this appropriation of the building. But can it be pretended, that the special occupation of a house for a particular purpose by government or by an individual, for any length of time, will convey to the occupant a general right to the soil?

If the town ever conveyed this estate, or any part of it, let the grant be shewn. The town having exhibited a title, the burden of proof is shifted upon the commonwealth. It is a well known maxim, that a grant shall not be presumed where records exist, and, during the whole time which this controversy embraces, regular records have been kept by the government, the county, and the town. The expenses of repairing this building were, it is true, divided between the parties. It is but equitable, that the occupants of a building should repair it : but because government contributed to the repairs, does it follow, that it is entitled to the soil on which the house is built?

The commonwealth has now the same right in this building, which it has had ever since the year 1711. It may be still used by the government for legislative purposes, but for no other. This title to an appropriate use was founded on a good considera-

tion, and may be claimed by a prescriptive right. We admit, that the commonwealth has a right to the use of certain parts of this building for certain purposes. If it is seized in common of any part, it must be for general purposes, and for this part a writ of partition would lie. But a writ of partition will not lie, where the petitioner has but a right to the use of the thing, not to the thing itself. Partition may not be made of any thing, which by the partition would be destroyed.

We may expect, that the evidence relative to recent events should be clear and satisfactory: but where facts, to be ascertained, are involved in the obscurity of ancient times, we must be content to obtain reasonable evidence. Vain is it to insist on certainty, where demonstration is impracticable.

The ATTORNEY-GENERAL. He first considered the law relative to partition. Neither tenants in common nor joint tenants could be compelled at common law to make partition. The statutes of 31 Hen. viii. c. 31, and of 32 Hen. viii. c. 32, provided a writ for this purpose. By the common law parceners could always be compelled to make partitions. In all cases where a writ of partition may be brought at common law, or by those statutes of Hen. viii., partition may be had under the statutes of this commonwealth.

The attorney-general then noticed the rule and the facts which led to the submission. The referees were not, he considered, to be confined to those strict legal principles, which would govern a court of law: but in conformity to the spirit of the rule and the wish of the parties, their award should be founded on the equity of the case.*

On what was the right of the town to the soil originally founded? The naming of a town could not convey to its inhabitants the soil, for it would be a grant but by implication and contrary to all legal ideas. Neither did it invest the rights of a corporation.

* The advocate for the commonwealth here produced the report of a committee, consisting of Dr. William Eustis and William Smith, Esq., appointed by the town to consider the subject, and to report to whom the Old State-House belonged. They reported, that the soil and one quarter of the building belonged to the town, one half to the commonwealth, and the remaining quarter to the county of Suffolk. Mr. Lowell: "This committee were never acquainted with the extent of the legal rights of the town in this property. They never investigated them. The statement in the report is erroneous; and it is well known, that the error of a party shall not injure him." Mr.

The colony was originally a body with the rights of a corporation. Till 1634 there was no government, but that of the governor and assistants. Boston was then first organized, and before that year had not the power of a corporation. The grant to Blaxton proves that the government did claim and exercise the right to dispose of lands in a town, after having given it a name, and thereby invested it, as the council on the opposite side contend, with the immunities of a corporation.

Does the commonwealth own any part of this building? In 1711, when the province designated this spot, on which to erect a State-House, and the town agreed to it, nothing was said of the right to the soil. The parties agreed to build a house for their mutual accommodation. This must be considered either as chicanery and cunning on the part of the town, or else a grant, or the concession of a grant, that the province was entitled to a certain proportion of the soil.

It cannot be denied, that a tenancy in common may be acquired by prescription. Ninety years ago these parties came together, and constructed this building. No one at that time, nor till this controversy arose, doubted the title of the commonwealth to a certain proportion of this building. Quiet possession of land for sixty years will vest a title in a corporation or a state, as well as in an individual: and the commonwealth has been possessed in common of this building from the year 1711 to the present time. This fact alone proves beyond controversy, that the claim of the commonwealth, which is set forth in the petition for partition, is well founded, and will serve to guide the referees to an award, which will be founded in equity and which will be conformable to the law of the land.

REPORT OF THE REFEREES.

*The Commonwealth of Massachusetts, by James Sullivan, Esq.,
Attorney General,*

vs.

The Selectmen of the Town of Boston.

The referees having fully heard the parties, their evidence, and the pleas and arguments of their learned counsel, report, That Parsons: "This paper contains only the opinion of those gentlemen. It is, however, neither a grant, nor the evidence of one." Attorney-General: "I do not consider it as either. The report was submitted to the town and accepted. I offer it as the sense of the town on this subject."

the said commonwealth is not seized of any undivided part of the land, whereof partition is prayed for.

The referees do further report and award, that the said commonwealth hath a right to use and occupy the building in the said petition mentioned and described, for the purpose of holding the sessions of the Governour and Council, and the General Court of the said commonwealth: and that certain bodies corporate have other rights and uses in the same building in such form and manner to be enjoyed, that the said building is not partible in the common and ordinary mode.

At the request of the said parties, and adopting their construction of the powers of the referees, under this rule, the referees do further award, that the Commonwealth, contributing to the necessary repairs of the said building, is entitled to receive one half of the rents or income of the same. And whenever all the parties interested in the said building shall agree to dispose of the same, that the said Commonwealth is entitled to one half the proceeds of sale.

The referees further award, that the costs be borne equally by the parties to this rule.

OLIVER WOLCOTT,
BENJ. BOURNE,
JEREMIAH SMITH.

BOSTON, July 28, 1802.

Supreme Judicial Court, August term, at Boston, A.D. 1802.

Report read and accepted, and judgment accordingly.

JNO. TUCKER, *Clerk.*

At their following session, the Legislature promptly authorized the sale of the interest of the Commonwealth, thus judicially determined, and on the 15th February, 1803—

Resolved, That Enoch Titcomb, Aaron Hill, and Nicholas Tillinghast, Esqs., be a committee, who are hereby appointed and authorized with full power, to make sale of all the Commonwealth's estate, right, title, and interest in and to the Old State House, to the town of Boston, or such person or persons, and on such terms as said committee shall judge will be most for the interest of the Commonwealth, and to execute good and sufficient deed or deeds of release thereof; and to pay the proceeds,

or deliver the securities which they may receive therefor, into the treasury of this Commonwealth. *Resolves* : p. 48.

Under the authority given by this resolve, these commissioners conveyed all the interest of the Commonwealth in the property to the Inhabitants of the Town of Boston for the sum of Six Thousand dollars, by a deed [28 April, 1803] which is duly recorded in the Suffolk Registry, Lib. 205, Fol. 207. Similar deeds conveying the respective interests of the County of Suffolk and the County of Norfolk are recorded also in the same Registry. That of Norfolk [May 21, 1803], in which the consideration is stated at \$1,176.58, is in Lib. 205, Fol. 215, and that of Suffolk [July 21, 1803], in which the consideration is stated at \$1,923.43, is in Lib. 206, Fol. 236. As by the judgment upon the decision of the referees, the State was entitled to one half the proceeds of the sale, the value of the entire property must have been fixed at \$12,000 in 1803. Boston seems to have paid Suffolk and Norfolk one hundred dollars and one cent more than their share—but it was a good investment.

"The Agents for selling the Old State House" were paid respectively : "The Hon. Enoch Titcomb, Esq., \$36.84 ; the Hon. Aaron Hill, Esq., \$21.84 ; the Hon. Nicholas Tillinghast, Esq., \$31.84 ;" making a total of \$90.52, as appears from *Pay-Roll*, No. 49. *June*, 1803.

The final record of the Legislature in this matter, was upon Governor Strong's message, sent in June 4, 1803, transmitting a report of the proceedings of the Committee appointed to make sale of the Commonwealth's part of the Old State House. *Resolves* : June, 1803, p. 12.

III.—EXAMINATION OF THE OLD STATE HOUSE MEMORIAL AND REPLY TO MR. WHITMORE'S "APPENDIX N."

The "re-dedication" of the Old State House, Boston, took place on the 11th of July, 1882. Mr. "WILLIAM H. WHITMORE, member of the Common Council from Ward 12," was the "orator of the day," and his Address on that occasion, "the address sanctioned by the Committee," as he styles it with laudable pride, to distinguish it from anything of less authority, was immediately printed in an octavo pamphlet of seventy-seven pages,

of which a large number were circulated like other public documents at the public expense. Since that time three other editions have been issued, also at the expense of the city of Boston, very fully and handsomely illustrated, and liberally distributed. These several editions bear ample testimony to the ability and research of the learned orator and editor, to whose great reputation as *the* local historian of Boston I ventured to pay my humble tribute in my first contribution to the history of the Old State House. The several editions of the *Old State House Memorial* have gradually increased in bulk—the third being a splendid octavo of two hundred and sixteen pages of text, besides no less than thirty-three full-page illustrations. The knowledge of the editor, great as it may have been, has evidently been added to in the course of these publications, and he has availed himself to some extent of his opportunities for correction, painful as it seems to be for him to submit to it. The present review, therefore, will be limited to an examination of the latest revision of the work, and chiefly the latest additions of the author. The errors which he has acknowledged and corrected need no further notice ; those to which he obstinately adheres will furnish subjects enough for present treatment. If my readers find the matter somewhat incoherent or wanting in proper method, I trust I shall be excused for the attempt to follow that of my critic, seeking my game wherever I find it, whether “in the open ” or “in shadiest covert hid.” If I should be accused of “going all round Robin Hood’s barn,” my only excuse is that “I was looking for somebody !”

At an early stage of his labors, Mr. Whitmore, we are informed by his architect, discovered “the original plans of the building” at Cincinnati (p. 159), and although we are subsequently told the truth that the plan thus brought to light was evidently the design of Isaiah Rogers, adopted and carried out in the reconstruction of 1830 (pp. 200, 203), the first impressions of its originality seem to have colored all the subsequent conceptions of Mr. Whitmore, his architect, and his committee, of what it was their province and duty to reconstruct in 1881–82. The principal new feature in the reconstruction of 1830, was the introduction of a circular staircase in the centre of the building, the evidence of whose existence there at some time previous to 1881 was “the most important development” on stripping the interior

and accompanied with at least "one mysterious circumstance" (p. 159).

Mr. Whitmore says (p. 62): "When the work of restoration was commenced . . . it was found that the framing of the timbers was such that there must have been a circular stairway in the place now occupied by it, from the first floor to the halls, and that the landings must have presented their present form." It was found that the heavy oak girders were hung by iron rods from the tie-beams of the roof trusses in the third floor; but it seems not to have occurred to the enterprising explorers that in the original construction of the building, those very girders extended from wall to wall, and that the centres had been sawed out, and the Doric pillars beneath, which originally supported them, taken away in order to make room for Mr. Rogers's new circular staircase in 1830. This was unquestionably the fact. No iron rods existed there at any time before the supporting pillars were taken out between the first and second floors at those points. Taken in connection with the facts now demonstrated, Mr. Whitmore's "discoveries" and the "important indications" of his architect are sufficiently ludicrous.

It is unnecessary to pursue these details. When the building was erected in 1712, the committee was instructed "to fit the East Chamber for the use of His Excellency the Governor, and the Honorable the Council, the Middle Chamber for the House, the West Chamber for the Superior and Inferior Courts." Mr. Whitmore says of the latter: "Notwithstanding the order to construct a west room for the courts, it is very doubtful if this were really done"—but he produces nothing whatever in the shape of evidence to justify his doubt, and in fact, as will abundantly appear, there can be no doubt about it. Every subsequent description and allusion to it sustains the fact, of which the proof is abundant in records which demonstrate the existence of the Court Room, and its use by the courts, until the completion of a new Court House in Queen Street, and its occupation in March, 1769. Nobody has questioned the existence of the Council Chamber or the Representatives' Chamber, so that there were three rooms of unequal size known to be included in that second story. It is also perfectly well known that the building was not less than one hundred and ten feet in length.

If Mr. Whitmore's central staircase occupied no more than ten

feet of that dimension of length, this would leave on the west side of it fifty feet for the Representatives' Chamber and Court Room. It needs but one glance at the plans which he has furnished to satisfy any reasonable mind on this point. They show more than one-third of the entire "space on the second floor" to be taken up with the circular staircase hall, and the adjoining ante-rooms, and all in the centre of the building! Can anybody be made to believe that anything like that could have been devised for or adjusted to the purposes and uses of the Legislature, colonial, provincial, revolutionary, or State? Yet this is the entertainment to which we are invited by Mr. Whitmore. The thing is preposterous on its face! There is no evidence whatever to show that there was at any time before 1830, any staircase, circular, spiral, or straight in the centre of the old State House.

The staircases and entries with lobbies, and there were two of each through all the period of legislative use of the building, never occupied more than twenty feet in all, probably less than ten feet on each side of the middle room, leaving nearly four-fifths of the space for the principal and necessary accommodation of the three official bodies of men who met there. The communication with the second and third floors by a staircase in the centre of the building was the dominant feature in the plan of 1830, which had to provide for two rooms of assembly, and various executive offices on the same floor. This is substantially reproduced in the present arrangement, consisting of two equal-sized halls divided by a rotunda, up the centre of which rises a winding stairway, with four small rooms in the corner spaces between the rotunda and the halls. The architects of the original building had to provide for three rooms of public assembly, for which two separate ways of access were distinctly and obviously necessary, and are known to have existed. There were eleven second-story windows, in each of the side walls of the building, opposite each other. My own *conjecture* as to the division would assign to the Council Chamber space to include three windows from the east wall; the eastern staircase entry and lobby, the fourth window; the Representatives' Chamber, the fifth, sixth, seventh, and eighth windows; then the western staircase entry and lobby, the ninth window; and the Court Room, the tenth and eleventh windows to the west wall. Making due allowances for the partitions, of which there must have been four, although not exact for want of

exact measurements, we can come near enough to indicate the general plan, and demonstrate the utter folly of Mr. Whitmore's discoveries, guesses, arbitrary assumptions, and groundless assertions.

But it is time to point out and do justice to his chief discovery—and his marvellous manipulation of the recorded dimensions in figures. I have quoted his remarks on the “find” of the circular stairway. He continues: “The same investigation showed that the Representatives’ Hall had its easterly end curved, while the Council Chamber was square. These indications coincide with a description published in 1791, when the halls were still occupied by the Legislature of the State, and when, apparently, no changes had been made” (pp. 62-63). He reprints the whole description in his text. The statement is therein expressly made that “the Representatives’ Chamber is fifty-seven and a half feet in length.” To this statement Mr. Whitmore appends the following note:

“This figure, fifty-seven and one-half feet, is an impossibility, being more than one-half the length of the building. But thirty-seven and one-half feet would reach exactly to the line of the curved end of the hall as shown in Rogers’s plans, and now reconstructed. Evidently the writer put his notes of the measurements in figures, and either he or his printer mistook thirty-seven and one-half for fifty-seven and one-half. The error really confirms the exactness of the record”!

The description of the State House is in the *Massachusetts Magazine* for August, 1791, vol. iii., 467-8. The dimensions of the chambers are not given in figures, but plainly spelled out in roman letters—so that there is no ground whatever for the suggestion of error on the part of either writer or printer, by mistaking 3 for 5. The measurement was undoubtedly correct and needed no error to confirm it. It is Mr. Whitmore himself who sins against the light, deliberately digging the hole and ostentatiously getting into it!

Struck by the wonderful co-incidence of one of the measurements on Rogers’s plan and his own ingenious invention of a mistake in the figures of the “contemporary witness” of 1791, Mr. Whitmore eliminated the theory of construction and reconstruction, which has been present to the mind of the restorer ever since. It has “mastered his intellectuals” and is still “a thing of beauty” to him, though I fear it will not be “a joy for-

ever." His arithmetical *ignis fatuus* has misled his judgment upon all the facts which cannot be made to fit his theory. If he would only drop that, all the facts would fall into their proper places without friction, and no awkward explanations or apologies would be necessary. It seems a pity to demand such a sacrifice, but it cannot be helped. The "contemporary witness" must have justice, and will, undoubtedly, secure the protection of the court. And this is the "contemporary witness," whom Mr. Whitmore has the audacity to charge me with having "ignored"! So far from ignoring the description of 1791, I have relied and still rely upon it as accurate and unimpeachable. I agree with the witness, but I reject the utterly groundless and unwarrantable alteration of the testimony deliberately made and avowed by Mr. Whitmore, in support of his theory.

He says that the length of fifty-seven and a half feet for the Representatives' Chamber is an impossibility. Wherein is the impossibility of it in a building one hundred and ten feet in length? The impossibility is in his attempt to put the Representatives' Chamber into less than one-half of the building when divided by a central staircase—to say nothing of another large public room with separate staircase entry and lobby to be provided for in the same space!

Mr. Whitmore's "important question" is thus easily and emphatically answered. Mr. Rogers's plan does not "represent in its outlines the arrangement when the Legislature quitted the building January 11, 1798," or at any other time previous to its "creation" by the architect in pursuance of his instructions for the reconstruction of 1830, p. 201. Although very positive in his own contrary opinion, the historian of the Old State House declares his inability to secure "definite information" on this point. *Ib.* He alleges that "the newspapers of 1830 are, unfortunately, entirely silent as to the extent of Mr. Rogers's alterations." *Ib.* This statement is incorrect. The newspapers are not silent, and one phrase from one of them is a sufficient answer to all this part of his apology. The *New England Palladium* of September 24th, 1830, says: "*The interior of the building is wholly altered.*" It is needless to multiply quotations from the press to the same effect. The alterations were the chief topic of the newspaper references to what was going on at the Old State House, at that time—June to October, 1830.

Let us accompany the historian on his "return to surer ground," to use his own phrase, p. 202. He says of the Council Chamber that "its only entrance was from the centre of the building." How does he know that there was but one entrance? or that to have been in the centre of width from north to south? As to the centre of length, east to west, there is considerable difference between thirty-two feet—the place of the west wall of the Council Chamber—and fifty-five feet—the centre of the building—by all scales of measurement with which I am familiar. Again, how does he know that any "winding stairway" was in any part of the building as "originally constructed in 1748?" On the contrary, it is absolutely certain that no "spiral stairway" was in the place occupied by the present one" at the time referred to, notwithstanding "the report of the City Architect." Whatever shape it may have had, the way "from the second floor to the tower" went up from one or both the eastern and western staircase entries and not from or out of any part of the Representatives' Chamber, which itself occupied not less than one-third of the whole space on the second floor—that third including the centre of the building.

Mr. Whitmore's speculations about "curved ends" and "straight ends," have no value in the discussion, and might be passed without further notice, as a part of a crooked treatment of a crooked subject. But I may remark in passing that there is not the slightest evidence or probability that the curves in question existed anywhere in the building before Rogers made them in 1830.

In the plenitude of his newly acquired familiarity with the "trifling details," Mr. Whitmore informs us twice in the space of ten lines on one point, viz.: that "it was not until 1776 that the State bought out the rights of the county," and that it was in the year 1776 "when the State bought out the county," p. 201. Now the State never bought out the county at any time, and never paid the county anything for the use of its property so generously offered in 1776, accepted and used until 1798!*

* Although the statement in the text is literally true, it seems proper to mention here that a motion was made in the House on the 25th September, 1777, that a committee be appointed to consider what sum shall be paid to the county of Suffolk, for *that part* of the present Representatives' Chamber which belonged to said county, whereupon a committee was appointed to con-

Referring to the plan for utilizing the Court Room thus offered in 1776, which I brought to light in my first paper, Mr. Whitmore ingenuously inquires: "What plan did the Committee adopt?" when the matter was referred back to them with power. I think it is not unreasonable to suppose that they carried out substantially the plan they had recommended. The House had approved that plan as reported, at the same time giving them power to make alterations. If they made any, it is certain that they made no changes which would impair or defeat the purpose of their plan. That purpose was to obtain more room, and all the room they could, for the vast number of new members, and at the same time increase the facilities for public accommodation in the galleries. Mr. Whitmore manifests a peculiar intolerance for the gallery, and "doubts if the gallery was retained" after 1776. From the beginning of his researches he seems to have cherished a dislike to it. In face of absolute testimony he almost doubted its existence at any time; and after reading my notes showing what an interesting feature it was in the history of the building, he still exhibits some spite against it and does not even give it a chance to cool off in winter. In the end, he parades his first doubts about it and his apparently reluctant admission of its existence as "all that the most enthusiastic antiquary could ask." If he reads my second paper with attention, I think he will no longer doubt that the gallery, which he classes with the Court Room as "an accident and transient," continued to exist to the end of the State occupation; and was sometimes thronged by crowds of interested visitors.*

sider *the motion*, and report. *Journal*, 88. On the 16th of October, the vote was reconsidered, and a new committee was appointed for the purpose mentioned in the motion, *i.e.* to consider the question of compensation; *Ib.* 111, but it is evident that the County received none at any time from the State, and realized their share only when the whole was finally secured to the Town of Boston in 1803.

* The recent publication of the *Diary and Letters of Hutchinson* furnishes an additional notice of this gallery in a MS. of Chief Justice Oliver, preserved among the Hutchinson Papers in England. It is as follows:

"There was a gallery at a corner of the Assembly Room, where Otis, Adams, Hawley and the rest of the Cabal used to crowd their Mohawks and Hawcubites, to echo the oppositional vociferations to the rabble, without doors." The Editor says the word Hawcubites "is of doubtful reading." *Diary*: 145.

Mr. Whitmore recurs to this topic in connection with his additional Court House notes and declares that these "notes make it plain that the Gallery in the Representatives' Chamber was begun at about the same time as the new Court House. There is evidently a connection between the two facts." What this mysterious connection is he does not tell us: perhaps it was like that of the Goodwin Sands and Tenterden steeple, but as to the rest of his statement—the records show that the gallery had been finished and paid for in March, 1767; the new Court House was not *begun* until after the 4th of May, 1768, and was finished and first in use in March, 1769—two years later than the gallery.

It is in this part of his performance that Mr. Whitmore himself undertakes what a few pages before he informs us "it is unnecessary to attempt," *i.e.* "to show what the probable size of the Court Chamber was." After considerable wrestling with it, he finally gets it down to thirteen feet in width! with the gallery over the chamber even then, and stairs *in* the chamber leading up to that gallery! The intelligent reader hardly needs to be informed that this is almost too absurd for comment. Were the principal courts of the Province of Massachusetts held for a period of more than twenty years in a room thirteen feet wide and fifteen feet high? and that height diminished during the latter years of its occupation by thrusting in a gallery overhead, thus putting "between decks" judges, lawyers and the whole judicial business of the principal county in the Province? that county having paid one fourth of the entire cost of the whole building, in order to ensure suitable accommodations. It is amazing that any man in his right mind should indulge in such ridiculous nonsense, actually figuring it out (p. 210) with contradictory measurements and impossible calculations!

As for the "stairs in the late Court Chamber in the Town House, so called, leading up to the Gallery there," which he has discovered—the order of the Court of General Sessions in May, 1769, to have them "immediately taken down" indicates not only the temper of the county authorities, but some evidently recent trespass committed on their property, which they naturally enough resented. Negotiations for the sale or exchange of their interest in the building had been going on for several years; and they had no reason to be satisfied with having the Court Chamber made use of as a thoroughfare to the Representatives' Gallery,

or for any other purpose, without their permission. The peremptory order of the Court was perfectly justifiable ; and I dare say that it was promptly executed.

Mr. Whitmore is careful to tell us what he says "every one knows that during the forty years after the City Government quitted this building [1841-1881] and while it was leased for business purposes, the interior suffered great changes." He might have said with equal truth that it suffered changes quite as great during the time between its final purchase by the town in 1803, and its reconstruction in 1830. Instead of this, he says "there is no record of any considerable alterations in the interior between 1798 and 1830"! He forgot that in his previous pages he himself had furnished a considerable record on that subject which might easily be extended, pp. 99- 09. I will add but one extract which seems to have escaped his attention when he was quoting Mayor Otis's grand address. Referring to the former history of the building, with which he was familiar from childhood, the Mayor said :

"In 1747 the interior was again consumed by fire, and soon repaired in the form which it retained until the present improvements [of 1830] *with the exception of some alterations in the apartments made upon the removal of the legislature to the new State House. Since the removal of the legislature, it has been internally divided into apartments and leased for various uses in a mode familiar to you all ;* and it has now undergone great repairs, this floor adapted to the accommodation of the City Government and principal officers, while the first floor is allotted to the Post Office, News Room and private warehouses."

In the matter of dimensions—note that in the description by Bowen: *Picture of Boston* : Ed. 1828-9, the size of the Masonic Hall is given as length 43 ft. breadth 32 ft. height 16 ft. Mr. Whitmore repeats these dimensions without criticism or question or even comment.

In the same notice, the occupation by the Free Masons is indicated as being of *all the second and third stories "except one room at the west of the second story which is occupied for the City Treasurer's office."* It is also stated that as early as April 29, 1812, the County Treasurer was assigned a *room adjoining West-erly that of the Town Treasurer.* *Mem. Vol. 106.* When the lease was made to the Freemasons for ten years from June 22,

1820, it covered "all the rooms above the lower story, except two on Cornhill" (i.e. Washington St.) *Ib.* 109.

Mr. Whitmore has thus himself furnished in three editions conclusive evidence that there were still at least two ways of access to the second floor in 1812 when the town and county treasurer's offices were established at the west end of the building and were not disturbed by the Freemasons in 1820, when the latter leased all the other rooms in the second and third stories. Was the Masonic Temple a thoroughfare to those offices?

Mr. Whitmore's later studies among the Court records have resulted in a series of notes under the sub-title of "*The Court House and the Gaol.*" My reference to the Court House in Queen Street was incidental, for the purpose of indicating the time when the Old State House was first disused by the Law Courts. It has turned out to be important in leading Mr. Whitmore to a knowledge of the facts that it was "a building distinct from the Old State House," and situated in "what is now Court Street." I also mentioned incidentally the tradition of Governor Bernard's having furnished the plans. Mr. Whitmore characterizes "Bernard's share in the work as a matter of tradition only." This is true, and Mr. Whitmore is indebted to me for all that he seems to know about it. If I had also given him the information, he might (or might not) have added that William Sullivan was the man who preserved the tradition. He was born in 1774 and died in 1839. He was familiar with the building from childhood; and although he was not a contemporary of Governor Bernard in Massachusetts, the tradition is sufficiently authenticated by his statement alone, that "this house was planned by Governor Bernard." *Address to Suffolk Bar* : 37.

The same authority states that "in the *Hall in the centre* (over the first floor, *formerly* used as the Exchange), the representatives assembled. Adjoining this hall, at the westerly end, was the *judicial court room.* *Ibid.* 36, 37.

Mr. Whitmore's contribution to the history of the new Gaol, which he says "was erected at the same time" with the new Court House also needs correction. He furnishes in the same sentence the record evidence that it was "finished the twenty-first day of March, 1767;" and (as I have previously stated) the new Court House, begun more than a year afterward, was not finished and occupied until March, 1769.

He also says that before the settlement of accounts for the construction of the Gaol, it was "greatly injured by a fire."* This is his way of stating the fact which appears of record, that it was "entirely consumed by fire, no part thereof but the stone walls being left." † On page 154, he reprints for the third time without correction the blunder of a writer whom he quotes, giving the date of that fire as the 30th June, instead of the 30th January, 1769. If he had never met with the Court records, he might have made the correction from the newspapers of the day, without much exertion.

The county building was called the New Court House at first because it was a new Court House, and afterwards to distinguish it from the Province Court House—although the latter was even then more frequently called the Town House, especially by the citizens of Boston. When Powars and Willis established their "New England Chronicle" in Queen St. in June, 1776, it was published "at their office opposite the new Court House in Queen St." but on the 7th of November, they emphasized the word "new," by printing it in small capitals—"at their Office opposite the NEW Court House in Queen St."

In 1769 "the Town Hall" meant "Faneuil Hall"—the "Town House," was what is now the Old State House. *Appeal to the World*: etc., 1769, p. 28. So also in 1770, the testimony in the trial of the soldiers shows that the building was commonly called and known as "the Town House." *Trial*, etc.; 1770, pp. 20, 28, 32, 40, 48, 52: and especially 86. At this period, too, the name was emphasized by the persistent efforts of the popular party to compel Hutchinson to bring back "the General Court to its ancient and constitutional place, the town-house in Boston." *Journal H. of R.* 1770, p. 36.

* Mr. Whitmore makes the same remark on page 57 with respect to the Town House. He says it was "greatly injured by a fire," in 1747, the fact being that it was entirely destroyed, except the bare walls. Cf. p. 175.

† For an account of the burning of "*the new Jail*," January 30, 1769, see *Boston Chronicle*, February 2, 1769. Further particulars, trial of the prisoners who fired it, etc., in samepaper; February 6, April 7, and May 1, 1769. Vol. ii. 39, 43, III, 140. "Nothing remained but the bare stone walls." "The loss to the county, by burning of the goal (*sic*) is estimated at £3000 sterling." Cf. the *Massachusetts Gazette*, February 2, 1769, and Holt's *Journal*: February 16, 1769, in which it is described as "*the large new county gaol*."

The confusion of these names may have led Mr. Whitmore into his error of supposing that the trials of Michael Corbett and others before the Special Court of Admiralty, in 1769, as well as the trials of Captain Preston and his soldiers, in the following year, took place in the Old State House. No evidence is furnished to prove that either of them was "held in this hall", and it is certainly not true that both the latter occurred in the same month of October, to which they are assigned by the learned orator. Preston's trial began on the 24th of October and held six days. The Court was adjourned to November 20th, and the trial of the soldiers began on the 27th and held nine days. The trial of those accused of firing on the people from the Custom House windows was on the 12th December: when the jury acquitted them all without leaving their seats. *Appendix to Trial, etc.* 1770. On the 14th of December, two of Preston's soldiers, who had been found guilty of manslaughter, prayed the *benefit of clergy*, which was allowed, and they were branded in the hand in open court and then discharged. The benefit of clergy was taken away in Massachusetts by a law passed March 11, 1785.

"A few days after the trials, while the Court continued to sit, an incendiary paper was posted up, in the night, upon the door of the Town House, complaining of the court for cheating the injured people with a show of justice, and calling upon them to rise and free the world from such domestick tyrants. It was taken down in the morning, and carried to the Court, who were much disturbed, and applied to the lieutenant governor, who laid it before the council, and a proclamation was issued, which there was no room to suppose would have any effect." *Hutchinson's Mass.*, iii. 330. Hutchinson's proclamation against the authors of a paper posted upon the door of the *Town House* in Boston is in the *Mass. Gazette* of December 13, 1770. The paper and lines "stuck up at the door of the *Town House*" are in the same paper, Draper's *Mass. Gazette*: No. 3507, December 20, 1770.

It is hardly worth while for me to take up the confused statements and repetitions of the "Appendix F. p. 154" to which Mr. Whitmore directs attention on p. 207. It is evident, however, that he has profited by study, if not instruction, since he wrote that part of his work: for he has discovered that the Court House and Gaol figured in his extract from Osgood Carleton's Map of 1800 are the same which were there in 1769. But he is not

contented with this—adding that “the Court Records not only show that there were two separate buildings in 1769, viz. : as Court House and a Gaol, but also a brick Probate Court building there.”

The fact is, however, that the “brick Probate Court building” was not “there” in 1769. It had been erected in 1754 and repaired in 1756, as appears from the records of the Court of General Sessions which he quotes : but in 1768, it was “taken down, for the better Accommodation and Convenience of a New Court House”—by order of the Court which determined at the same Sessions upon the erection of that new Court House, in which a new Probate office was duly provided for.*

Mayor Otis in the inaugural address so often quoted refers to the “offices for the clerks of the supreme and inferior courts” which were “on the north side and first floor” of the Old State House. “In them (he says) the Judges robed themselves and walked in procession followed by the bar at the opening of the courts.”

After the removal of the courts to the new Court House in 1769, these offices continued to be kept in the Town House, and the procession became a more imposing and conspicuous affair in marching thence to the new place for holding the courts. It must have been a striking scene—the procession of official personages with all their proper insignia, the Judges with rich robes of scarlet English broadcloth in their large cambric bands and immense judicial wigs, and all the barristers-at-law of Boston and the neighboring counties, in gowns, bands and tie-wigs. Something certainly was lost when “the trumpet, the scarlet, the attendance” were taken away from judicature.

The following extracts from the newspapers of the day, confirm the accuracy of the tradition preserved by Mayor Otis, and present a lively suggestion of the scenes in 1774 and 1785 :

“Boston : Sept. 1, 1774. Last Tuesday [August 30th] being the day the Superior Court was to be holden here, the Chief Justice, *Peter Oliver*, Esq., and the other Justices of the said Court, together with a number of gentlemen of the Bar, attended

* It is a fact worth mentioning here that the earliest notice of any occupation of the building which I have met with is an advertisement that “The Probate Office for the County of Suffolk is now kept in the new Court House, Boston.” *Massachusetts Gazette* : March 9, 1769.

by the High and Deputy Sheriffs walked in procession *from the state-house to the Court House, in Queen Street.*" [On this occasion all the members of the Grand and Petit Jury panels refused to serve and to take the oath—a full account of proceedings, &c. follows.] *Gainé* : No. 1196, September 12, 1774.

" 1785. August 30. The Supreme Judicial Court opened Tuesday, August 30th, in this town with the usual Solemnities. The following was the order of procession from the State House—

Constables with their Staves 2 and 2

Deputy Sheriffs

High Sheriff

Clerks of the Court

The Honorable the Judges

The Attorney General

Barristers, Attornies, &c. &c."

Centinel : Aug. 31, 1785.

Doubtless other and more recent examples might be cited. I have not the means at hand to determine when these formalities ceased to be observed—though I am under the impression that some of the elder members of the Bar in Boston may recall them among their youthful experiences.

Among the "trifling details" not excluded from notice in "the address sanctioned by the committee," the carving of the ancient arms of the colony, which was one of the interior decorations of the building, is made to "point the moral and adorn the tale" as a part of Mr. Whitmore's defence, if not exaltation of the royal emblems, whose perennial contest for the crown is curiously symbolized by their bold reproduction in the angles of the eastern façade of the Old State House.

In my first paper, I referred to the figure of the Indian in the arms of the Commonwealth, as a survival of that in the centre of the colony seal and arms. A comparison of the two may be interesting. The survival is described in the language of heraldry, as "an Indian dressed in his shirt and mogossins, belted proper, in his right hand a bow *topaz*, in his left an arrow, its point towards the base of the second," etc. His predecessor was dressed in his long hair, so exaggerated as to resemble a very full-bottomed wig—with a breech-cloth and perhaps moccasins—not girded or belted at all, but with his bow where it ought to

be, in the left hand, and his arrow in the right, his attitude being by no means hostile, though sufficiently warlike.

It is a fact worthy of notice that when the Society for the Propagation of the Gospel in Foreign Parts, the great Missionary Society of the Church of England, was established, its founders seem to have taken a hint for the design of its seal from this old one of the Governor and Company of the Massachusetts Bay. The Macedonian cry, however, is no longer the individual appeal in English of a single savage, but floats in a Latin scroll over a number of people, who are figured as running towards the shore of the sea, on which is borne towards them, with swelling sails, a ship, from the bow of which a clergyman holds out the token of good-will in the shape of an open Bible or Prayer Book.

Mr. Whitmore gravely informs us (p. 147) that "although no specimen is now known of the Colony Arms, it cannot be doubted that they were the same as those on the Great Seal" of the Province. If the Province Arms were the same as those on the Province Seal, why should we suppose that the ancient arms of the Colony were other than the device on the Colony Seal? And how would the Lion and the Unicorn look in the capacity of supporters for that primitive Massachusetts Indian? His pitiful cry for help would indeed be an appropriate motto for a naked savage, flanked by two such beasts entirely unknown then as now in the American fauna.

Mr. Whitmore has bestowed a good deal of critical operosity on this subject of the Massachusetts Seal, and it is largely due to him that the great seal of the Commonwealth now has a solid foundation of suitable legislation. The evolution of the arms thus established by statute reflects little credit, however, upon their manipulation in any generation since the first. Their story is told in *House Document* No. 345, April, 1885. Paul Revere's patriotism was evidently of a much higher quality than his genius as an artist or skill as an engraver—if it is to his performances upon the arms and seal that we must refer the transformation of the original type of the savage warrior into the left-handed and more or less civilized Indian of the later period. The early Massachusetts engraver who made the cuts representing the Colony Seal for the various publications of laws in 1672 and afterwards, was more faithful, keeping the bow in the bow-hand, and preserving in other respects the verisimilitude of his subject.

In 1775 the committee charged to produce a new Colony Seal went back to the Indian ; but portrayed him with a Tomahawk and Cap of Liberty ! This was changed into a straddling, if not bowlegged English-American, holding a sword in his right hand and Magna Charta in his left, with the famous Latin motto by Sidney, "*Ense petit placidam sub libertate quietem.*" When in 1780 they came back to the aboriginal type, they restored the bow and arrow, but in the wrong hands respectively.

It might have been fortunate if the House Committee on the Judiciary, in 1885, while studying proper legislation on the Great Seal of the Commonwealth, had been as well instructed in archery as they were in heraldry.

The architect's report mentions one or two "minor details" deserving notice, of results obtained when the "careful carpenter" made the thorough examination "for more than four weeks under the immediate observation" of Mr. Whitmore and himself, in order to detect "any hidden traces left of the original interior." The marvellous coincidences revealed of conformity to the plan of re-construction by which new partitions had been put in fifty years before, would be much more to the purpose, if proof could be offered of any resemblances in either to the original building of 1748-9. In view of the fact, however, that but one of these partitions could possibly have been a part of the original building, we cease to regard the discovery of their "indications" with any considerable interest.

So, too, with respect to the windows, which Mr. Whitmore has asserted to be original, as well as the walls, timbers, and floors. It can be demonstrated that "*new* window frames, sashes, &c.," were a part of the reconstruction in 1830.

It would not be difficult to point out other errors of statement in more or less "trifling details ;" but I am not disposed to find fault with the enthusiastic imagination of the orator of the day who "has the sanction of the committee" upon such an occasion—and I forbear.

Mr. Whitmore, very unexpectedly to me, has taken it upon himself to treat my paper as though I had wantonly attacked the Committee of the City Council of Boston, of which he was the chief member, and criticised their doings in an "offensive" manner. I am not conscious of having done anything of the kind ; and on my request to him to point out the criticisms to which

he referred, I regret to say that he failed to do so. It is Mr. Whitmore alone who says that the truth of my statements would furnish a serious ground of complaint against the committee. My statements were true, as I have now shown "with confirmation strong." Yet I have neither made nor suggested any such complaint, though I will not now withhold my opinion that his own aggressive and unnecessary defence does no honor to his committee, and will reflect little credit upon its author. Unless I am seriously mistaken, the head and front of my offence consists in my substantial correction of Mr. William H. Whitmore in matters respecting which he justly enjoys a high reputation for knowledge and skill as a historical critic and local antiquarian. He must pardon me, if in acknowledging his great merits, I stop short of recognizing his infallibility.

"Hanc veniam petimusque damusque vicissim."

IV.—EXTRACTS FROM RECORDS.

Suffolk ss. — At a Court of General Sessions of the peace held at Boston within & for said County of Suffolk, by Adjournment, on Tuesday the 24^t day of January, A.D. 1764.—

Whereas Samuel Welles, Samuel Watts William Story Joseph Williams and John Ruddock Esq^{rs} at the Sessions of this Court, on the seventeenth of August last, were appointed a Committee to Consider how far it was necessary that a new Courthouse be built, for the several Courts of Justice in this County to sit in for the future, it [in] what part of the Town of Boston it will be most convenient to Erect said House, to Consider of what Dimensions said House shall be, and prepare an Estimate of the whole Expence of Erecting and, compleating the same, they to make report &c.—The said Committee now Inform the Court, that in case a new Courthouse shall be Erected in this County they understand the General Court are desirous of taking the present Court Chamber for the use of the Province, making such an Allowance to the County for the same as shall be Judg'd reasonable, and that the General Court have appointed a Committee to Consider of the same accordingly. Whereupon It was mov'd and is Order'd, that the Committee of this Court

abovenamed be, and they hereby are fully Authorized & Impowered to Confer with the Committee of the General Court, hear the Proposals they shall make and finally Agree & Determine upon what sum of Money or other Allowance, shall be made to the County by the General Court, for their taking to their own Use the Court Chamber aforesaid, or do whatever else they shall Judge to be most for the Interest of the County in this matter.

Stephen Greenleaf Esq^r. Sheriff of this County, Inform'd the Court that the County Goal is in several places out of repair, that a few days since several persons attempted, & almost made their Escape, that he apprehends unless some speedy Care is taken, & said Goal repair'd, some persons will soon Escape from the Goal, praying the Court to take the same into Consideration, & do what they shall think proper. Order'd that the standing Committee for repairing said Goal be & they hereby are directed to make such Repairs to said Goal, as shall be effectual to Secure the Prisoners that are in said Goal, or shall be hereafter committed.

1765. Feb. 1. *Post Meridiem*.—

Timothy Paine, Esq; brought down the following Vote of Council, *Viz.* In Council *Jan.* 30. 1765.

Ordered, That *William Brattle*, and *Edmund Trowbridge*, Esqrs; with such as the honorable House shall join, be a Committee to view the Goals in the County of *Suffolk*, and inquire whether they be in a Condition fit to receive Prisoners, or whether they can be confined therein without being exposed to unreasonable Hardships and Sufferings, and make report.

Sent down for Concurrence.

Read and Concurr'd. And Col. *Bowers*, Col. *Worthington*. and Mr. *Wirt*, are joined in the Affair.

—Journal H. of R., p. 207.

1765. Feb. 12. *Post Meridiem*.—

James Russell, Esq; brought down the Report of the Committee of both Houses appointed to View the Goal in the County of *Suffolk*, with a Vote of Council thereon, *Viz.* In Council, *Feb.* 5, 1765.

Read and accepted, and *Resolved*, That there has been a Neglect of the Court of Sessions for the County of *Suffolk*, of making

proper Provision for the Custody of Criminals as the Laws of Humanity require, and *Ordered*, That the Consideration of this Report be refer'd to the next sitting of this Court, that the Court of Sessions may have opportunity to provide a Goal in which Prisoners may be kept without that extreme Suffering to which they are now subjected ; & that in case of further Neglect, such Goal be provided by Order of this Court, and that the charge thereof be added to the Towns of the County of *Suffolk* in the Province Tax next after.

Sent down for Concurrence. Read & non-Concurr'd.

—Journal H. of R., p. 236.

Suffolk ss.—At an Adjournment of a Court of General Sessions of the peace held at Boston, within & for said County of *Suffolk* on Tuesday the 30th day of April, A.D. 1765.—

Jeremiah Gridley, Belcher Noyes & Stephen Greenleaf, Esq^r. are appointed a Committee to cause a Plan to be taken of the Lands belonging to the County whereon the Goal, &c. now stands, & such other Lands adjoining to the County Lands, as s^d. Com^{tee} shall think proper, & report the same to this Court, as soon as may be.

Suffolk ss.—At a Court of General Sessions of the Peace held at Boston, within & for said County, by Adjournment, on Tuesday the thirtieth day of July AD 1765.

Ordered that Samuel Welles Samuel Watts Foster Hutchinson John Ruddock and William Story Esq^{rs} be and they hereby are appointed a Committee to Consider what is best for the Court to do, with respect to building a new Courthouse, & new Goals, & report their Opinion thereon as soon as may be.

Suffolk ss.—At a Court of General Sessions of the Peace held at Boston within & for the County of *Suffolk* on Friday the 9th day of August AD 1765, by Adjournment.

The Committee appointed the 30th of July to Consider what is best for the Court to do with respect to the building of a new Courthouse and new Goals, report that they Judge it absolutely necessary that a new Courthouse and a new Goal should be built as speedily as may be, and that the Lands belonging to the County whereon the Goal and other Buildings stand are full sufficient & convenient for that purpose,—after mature Deliberation thereon,

Order'd that a New Goal for Criminals & Debtors be built on the Lands belonging to the County situate in Queen Street in Boston, and that the same New Goal be built in the Rear of said Land and to Extend the Wedth thereof as near to the extreme bounds as conveniently may be, so as not to go on the East & West lines.—

Order'd that Samuel Welles, Samuel Watts, Foster Hutchinson, John Ruddock & John Tudor Esq^r be, and they hereby are appointed a Committee for building said new Goal, and they are desired to Provide the Materials, Agree with the Workmen, and do everything necessary for Effecting the same, as soon as may be,—And said Committee are hereby directed & Impowered, if they find it most for the benefit of the County, to hire Moneys for carrying on s^d Building & pay Interest for the same, & that the County shall be chargeable for repaying the same—The Consideration of Erecting a new Court house is referr'd over to the next Sessions.—

Joshua Henshaw Esq^r Treasurer of this County, Inform'd the Court, that his Accot^s have been laid before the General Court at their last Session, & Approved of, and that it is necessary a New Tax should be laid on the several Towns in the County for defraying the Charges of the ensuing year, The Court taking the same into Consideration as also the extraordinary Expence the County will be at in Erecting & Compleating a New Goal for Criminals & Debtors, Order that the sum of One Thousand five hundred Pounds lawful money be Rais'd for the Purposes aforesaid, and that the Clerks of this Court Issue Warrants to the several Towns in the County, for each Towns Proportion thereof according to the last Tax Act, the same to be paid into the County Treasury, on or before the last day of May next.—

The several Towns Proportion is as follows Viz^h

Boston.....	£818. 15. 10	Wrentham.....	£54. 18. 4
Roxbury.....	88. 18. 9	Brookline.....	24. 10. 10
Dorchester.....	55.—.—	Needham.....	22. 10.—
Milton.....	36. 11. 8	Stoughton.....	48. 18. 4
Braintree.....	70. 16. 8	Medway.....	20. 2. 1
Weymouth.....	35. 13. 4	Bellingham.....	12. 3. 4
Hingham.....	72. 7. 6	Hull.....	7.—.—
Dedham.....	62. 7. 6	Walpole.....	21. 7. 6
Medfield.....	28. 9. 7	Chelsea.....	19. 8. 9

Fifteen Hundred Pounds in the whole.—

Warrants issued August 15th 1765.—

Suffolk ss.—Anno Regni Regis Georgii Tertii, Magnæ Britanniae Franciæ et Hiberniæ Sexto. At a Court of General Sessions of the Peace begun & held at Boston within & for the County of Suffolk on the first Tuesday of October, being the seventh day of said month Annoq : Dom : 1766.—

Joshua Henshaw Esq^e. Treasurer of this County, Inform'd the Court that his Accot^s. have been laid before the General Court at their last Session, and approv'd of, and it appearing to the Court that said Treasurers Accot^s. have pass'd the Allowance of the General Court. The Court Consider'd what Sum it will be necessary to raise by a Tax on the several Towns in the County for defreying the usual Charges & carrying on the building of the new Goal, and after mature deliberation, determin'd that the sum of Fifteen hundred Pounds lawful money be raised for the purposes aforesaid, and that the Clerks of this Court be & they hereby are Ordered to issue Warrants to the several Towns in the County for each Towns Proportion thereof according to the last Provincial Tax Act, the same to be paid into the County Treasury, on on before the last day of May next ;

The several Towns Proportion is as follow Viz^t.—

Boston.....	£818. 15. 10.	Brookline	24. 10. 10
Roxbury	88. 18. 9	Needham.....	22. 10. —
Dorchester	55. —. —	Stoughton.....	32. 19. 10
Milton.....	36. 11. 8	Medway.....	20. 2. 1
Braintree.....	70. 16. 8	Bellingham.....	12. 3. 4
Weymouth.....	35. 13. 4	Hull.....	7. —. —
Hingham	72. 7. 6	Walpole.....	21. 7. 6
Dedham.....	62. 7. 6	Chelsea.....	19. 8. 9
Medfield	28. 9. 7	Stoughtonham }	15. 18. 6
Wrentham	54. 18. 4	District }	

Fifteen hundred pounds in the whole.—

Warrants issued October 20^t. 1766.—

Suffolk ss.—At a Court of General Sessions of the Peace held at Boston within & for said County of Suffolk by Adjournment on Tuesday the 21st. day of October A.D. 1766.—

Order'd that Samuel Wells Jeremy Gridley Joshua Winslow Richard Dana & Foster Hutchinson Esq^{rs}. be & they hereby are appointed a Committee to prefer a Petition to the General

Court, representing the great Inconveniences of the Chamber which for many years past has been improved by the several Courts of Justice in this County to sit in, the same being too small, & the Business thereof frequently Interrupted by the great Number of Carriages passing & repassing in the Streets, & that as the Room where the Hon^{ble} House of Representatives sit, wants to be enlarged & better Accomodations there made, as this Court have been informed, the aforesaid Committee are hereby directed & impowered to Confer with such Committee as may be appointed, relating to the grant or allowance that shall be made to the County, by the Province for s^d. Court Chamber in case the General Court shall take the same to their own use, that so the County may be Enabled to provide some other House for the Courts of Justice to sit in, & said Committee are desired to report their doings therein to this Court, as soon afterwards as may be.—

Suffolk ss.—At a Court of General Sessions of the peace held at Boston within & for the County of Suffolk, by Adjournment on Tuesday the fifth day of May A.D. 1767.

The Committee appointed the 21st of October last, to make Application to the General Court relating to the building a new Courthouse, reported that they had prefer'd a Memorial to the General Court, & Confer'd with their Committee concerning it, but said Court has not yet done anything thereon, It is thereupon Order'd that said Committee be desir'd to make such further Application to said Court for bringing this Affair to some final determination, as they shall think necessary & proper & Report thereon to this Court.—

Suffolk ss.—At a Court of General Sessions of the Peace held at Boston, within & for said County of Suffolk, by Adjournment, on Wednesday the 10th day of June A.D. 1767.—

The Committee appointed to make further application to the General Court about building a new Courthouse, report that since the last sitting of this Court, they had preferr'd another Memorial to the Court, & being largely heard thereupon in the hon^{ble} house of Representatives, but are Informed that the house have done nothing thereupon.—

Suffolk ss.—At a Court of General Sessions of the peace held at Boston within & for said County of Suffolk by Adjournment, on Tuesday the eleventh day of August A.D. 1767.—

Joshua Henshaw Esq^e Treasurer of this County, Informed the Court that his Accot^s were laid before the General Court at their last Session & approv'd of, & pray'd the Court will now determine upon the Sum necessary to be rais'd for defraying the Expences of the County, Upon Consideration hereof It is Agreed & Determin'd by the Court, that it will be necessary to raise the sum of Fifteen hundred pounds by a Tax on the several Towns in the County, for compleating the new Goal & paying the other usual Charges of the County, And It is hereby Order'd that the Clerks of this Court Issue Warrants to the Several Towns in the County for Each Towns proportion thereof, according to the last Provincial Tax Act, the same to be paid into the County Treasury on or before the last day of May next.—

The Several Towns proportion is as follows—Viz^h

Boston.....	£818. 15. 10.	Brookline.....	£24. 10. 10
Roxbury	88. 18. 9.	Needham.....	22. 10. —
Dorchester.....	55. —. —.	Stoughton.....	32. 19. 10
Milton.....	36. 11. 8.	Medway....	20. 2. 1
Braintree.....	70. 16. 8.	Bellingham.....	12. 3. 4
Weymouth.....	35. 13. 4.	Hull.....	7. —. —
Hingham.....	72. 7. 6.	Walpole.....	21. 7. 6
Dedham.....	62. 7. 6.	Chelsea.....	19. 8. 9
Medfield.....	28. 9. 7.	Stoughtonham }	15. 18. 6
Wrentham.....	54. 18. 4.	District }	

Fifteen Hundred pounds, in the whole.—

Warrants issued August 14: 1767.—

Suffolk ss.—At a Court of General Sessions of the peace held at Boston within & for said County of Suffolk, by Adjournment, on Tuesday the 26th day of January, A.D. 1768.—

The Petition of Sundry Inhabitants of the town of Boston, praying that the wooden Shop adjoining to the Probate Office in Queen Street may be removed, they apprehending said office to be much endanger'd by Fire, in case said Shop is suffer'd to

remain there any longer, It is thereupon Order'd that the Sheriff of this County take care that said Shop be immediately taken down, or removed to some other place distant from said office.—

Suffolk ss.—At a Court of General Sessions of the peace held at Boston, within and for said County of Suffolk, by Adjournment, on Wednesday the fourth day of May A.D. 1768.—

Order'd that the Brick Building Erected a few years since on the Land belonging to the County near the Goal in Boston, for an office for the Court of Probate, be taken down, for the better Accomodation & Convenience of a New Court House.—

Suffolk ss.—At a Court of General Sessions of the peace held at Boston, within and for said County of Suffolk, by Adjournment, on Wednesday the fourth day of May A.D. 1768.—

Whereas the Chamber wherein the several Courts of Justice within this County have set for a great number of years past, is too small, & has been found to be very inconvenient & uncomfortable to the Judges, the Gent^l of the Bar, the Jurors, Witnesses, & Parties concern'd, & all others that are necessarily Obliged to attend said Courts, & it having been intimated that said Chamber will greatly accomodate the General Court or Assembly that usually Sit in said house : And this Court having several times taken this Affair into Consideration, & relying upon the Justice of the General Court in making such an Allowance to the County for said Chamber, & such other parts of said house which belong to the County, as shall be equitable, now Determine, And It is hereby Order'd that a New Courthouse within the Town of Boston, for the Several Courts of Justice to Sit in, be Erected as soon as may be, and that Joshua Winslow Foster Hutchinson & John Tudor Esq^{re} be and they hereby are appointed a Committee to Erect an handsome Brick Building on the Lands belonging to the County in Queen Street in Boston (on part whereof the old stone Goal lately stood) for the several Courts of Justice within this County to Sit in, that a large commodious Chamber be assigned for said Courts, and that on the lower Floor of said Building, s^d Committee Assign & Sett off such parts of it, for the Probate office, for the Register of Deeds, & for the Clerks of the Court of General Sessions of the peace,

& Court of Comon Pleas, as they shall Judge to be necessary & convenient for their respective offices ; And said Committee are desir'd & Impower'd to do whatever else they shall Judge proper for compleating the same in such a manner, as to make it most convenient : And It is further Order'd that said Building shall not exceed the dimensions following Viz: Of Sixty feet in length, & forty feet in breadth from outside to outside, and said Committee are directed to make Report of their Doings hereon to this Court, as soon as may be, after s^d Courthouse is finished.

Order'd that Joshua Winslow Foster Hutchinson & John Tudor Esq^{rs} the Committee appointed by this Court, to Erect the new Courthouse be and they hereby are directed and impower'd, (if they shall Judge it necessary) to hire Monies for carrying on said Building, and pay Interest for the same, and that the County shall be chargeable, for such sums as they shall borrow & the Interest thereof, and the Treasurer of the County for the time being is hereby directed to pay all such Monies as said Committee shall borrow, and the Interest that shall become due thereupon.—

Suffolk ss.—At a Court of General Sessions of the peace held at Boston within & for the County of Suffolk, by Adjournment, on Tuesday, the ninth day of August, A.D. 1768.—

Joshua Henshaw Esq^c Treasurer of this County, Inform'd the Court that his Accot^s were laid before the General Court at their last Session & approved of, and prayed the Court will now determine upon the sum necessary to be rais'd for defreying the Expences of the County. Upon Consideration hereof, It is Determin'd & Order'd by the Court, That the Sum of Three Thousand pounds be rais'd by a Tax on the several Towns in this County, the same be Applied for payment of the Expences in building the New Courthouse, & the usual Charges of the County, And it is further Ordered that the Clerks of this Court, Issue Warrants to the Several Towns in the County for each Towns proportion thereof, according to the last Provincial Tax Act, the same to be paid into the County Treasury on or before the last day of May next.—

The Several Towns proportion is as follows.—Viz!—

Boston	£1637. 11. 8.	Brookline	£49. 1. 8
Roxbury	177. 17. 6	Needham	45.—.—
Dorchester	110.—.—	Stoughton	65. 19. 8
Milton	73. 3. 4	Medway	40. 4. 2
Braintree	141. 13. 4	Bellingham	24. 6. 8
Weymouth	71. 6. 8	Hull	14.—.—
Hingham	144. 15.—	Walpole	42. 15.—
Dedham	124. 15.—	Chelsea	38. 17. 6
Medfield	56. 19. 2	Stoughtonham {	31. 17.—
Wrentham	109. 16. 8	District }	

Three Thousand pounds in the whole.—

Warrants issued August 15th 1768.—

Suffolk ss.—At a Court of General Sessions of the Peace held at Boston within & for the County of Suffolk on Tuesday the twenty seventh day of January A.D. 1767. by adjournment.—

Order'd that the sum of Five Hundred Pounds be paid out of the County Treasury unto Samuel Welles Samuel Watts Foster Hutchinson John Ruddock & John Tudor Esq. the Committee appointed by this Court to build the new Goal, to Enable them to carry on the same the said Committee to be accountable to this Court for that sum.—

Order'd that the Sum of One Thousand pounds lawful money be allowed & paid out of the County Treasury unto Samuel Welles, Samuel Watts, Foster Hutchinson John Ruddock & John Tudor Esq. the Committee appointed by this Court for building the New Goal, to Enable them to carry on the same, the said Committee to be accountable to this Court for that sum.—

Suffolk ss.—Anno Regni Regis Georgii Tertii Magnæ Britanniae Franciæ et Hiberniæ Septimo.—

At a Court of General Sessions of the peace, begun & held at Boston within and for the County of Suffolk on the Third Tuesday of April. being the twenty first day of said month, Annoq: Dom: 1767.—

Order'd that the sum of One Thousand five hundred pounds lawful money, be paid out of the County Treasury unto Samuel

Welles, Samuel Watts, Foster Hutchinson John Ruddock & John Tudor Esq^{rs} the Committee appointed by this Court for building the new Goal, to Enable them to carry on the same, the said Committee to be accountable to this Court for that sum.—

Suffolk ss.—Anno Regni Regis Georgii Tertii, Magnæ Britanniæ Franciæ et Hiberniæ Octavo. At a Court of General Sessions of the peace begun and held at Boston, within & for the County of Suffolk, on the first Tuesday of October, being the fourth day of said month, Annoq : Dom. 1768.—

Order'd that Joshua Winslow Edmund Quincy & Belcher Noyes Esq^{rs} be and they are hereby appointed a Committee to Audit the Accompts of Samuel Welles, Samuel Watts Foster Hutchinson, John Ruddock & John Tudor Esq^{rs} the Committee appointed by this Court on the ninth day of August 1765. for building a New Goal, & they are desir'd to make report of their doings thereon, after they have compleated the same.

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